

AGENDA  
**SENATE STATE AFFAIRS COMMITTEE**  
8:00 A.M.  
Room WW55  
Friday, January 15, 2016

SUBJECT	DESCRIPTION	PRESENTER
INTRODUCTION OF PAGE:	Nina Harelson	Senator McKenzie
Docket No. <a href="#">34-0501-1501</a>	<b>IDAPA 34 - SECRETARY OF STATE</b> 34.05.01 Rules Governing Farm Products Central Filing System - Page 2 – Pending Fee (Green)	Jeff Harvey, UCC Supervisor Office of the Secretary of State
Docket No. <a href="#">38-0404-1501</a>	<b>IDAPA 38 - DEPARTMENT OF ADMINISTRATION</b> 38.04.04 Rules Governing Capitol Mall Parking – Page 28 Pending Rules	Ric Johnston, Facilities Services Manager, Department of Administration
Docket No. <a href="#">38-0407-1501</a>	38.04.07 Rules Governing Use of the Interior of State Property in the Capitol Mall and Other State Facilities – Page 35 Pending Rules	

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman McKenzie  
Vice Chairman Lodge  
Sen Davis  
Sen Hill  
Sen Winder

Sen Siddoway  
Sen Lakey  
Sen Stennett  
Sen Buckner-Webb

COMMITTEE SECRETARY

Twyla Melton  
Room: WW42  
Phone: 332-1326  
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MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Friday, January 15, 2016

**TIME:** 8:00 A.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Lodge, Senators Davis, Hill, Winder, Siddoway, Lakey and Stennett

**ABSENT/ EXCUSED:** Senator Buckner-Webb

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**CONVENED:** **Chairman McKenzie** called the Senate State Affairs Committee (Committee) to order at 8:00 a.m. with a quorum present and welcomed the Committee to the first State Affairs meeting for this session. He introduced Nina Harelson, Committee page, and asked her explain why she decided to be a page and share her plans for after high school.

**Ms. Harelson** stated that she attends Century High School in Pocatello. Her government teacher is former Senator Frasure, who recommended that she apply for the page program. Senator Hill is her sponsor. She has been accepted by Boise State University and plans to major in business with an emphasis in health care administration. **Chairman McKenzie** and the Committee members welcomed Nina.

**PENDING RULES REVIEW:** **Chairman McKenzie** recognized Jeff Harvey, Uniform Commercial Code Supervisor, Office of the Secretary of State, to present the following pending fee rule.

**IDAPA 34 - SECRETARY OF STATE**

**DOCKET NO. 34-0501-1501** 34.05.01 Rules Governing Farm Products Central Filing System.

**Senator Davis** commented that the elimination of all the categories for methods of transmission makes perfect sense. However, he had a question regarding the use of CDs since most computers do not have a CD/DVD drive anymore. **Mr. Harvey** responded that these fees have not been reviewed since 1986. An internet download service is now being provided. One hundred percent of their clients are downloading their data, so they are no longer burning CDs. As a result, the average fee of \$60 per unit of data is being reduced to \$30 as listed on page 10 under subsection 303.03.a. However, there is a higher cost for paper or a CD.

**Mr. Harvey** explained that they also added one all-encompassing code for Idaho counties, which is 00. This is in addition to the individual county codes. The code addressing fees had not been changed since 1986 and was obsolete. The change to a flat fee system makes it easier for everyone.

Being no further questions, **Chairman McKenzie** called for a motion.

**MOTION:** **Senator Davis** moved to approve **Docket No. 34-0501-1501**. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

**Chairman McKenzie** introduced Ric Johnston, Facilities Services Manager, Department of Administration, to present the two pending rules for that agency.

**IDAPA 38 - DEPARTMENT OF ADMINISTRATION**



**Mr. Johnston** stated that this rule applied to programing that links the parking program to the new website. It establishes language for legislator parking only. It also clarifies the visitor parking times and locations.

**Senator Davis** observed that legislative parking spaces were already provided for in the rules. These new rules state that if a legislator is assigned to one space, he could not go to another legislative space without incurring the possibility of a ticket.

**Mr. Johnston** agreed with the observaton.

**Senator Winder** added that there is no enforcement in the parking lots at night. At times the legislators arrive in the morning to find someone in their reserved space so they need to find another space. Where can they park? **Mr. Johnston** answered that the legislator should call security and let them know since they do have the authority to tow the vehicle should that be necessary. They will find the legislator an alternate space and address the situation so the legislator will not receive a ticket.

**Mr. Johnston** explained that the rules also changed for visitor parking. They now include the placement of information signs and added time limits. They also create a way for state workers not paid through the State Controller's Office to obtain parking permits through the temporary workers program. **Chairman McKenzie** noted that visitor parking will be limited to three hours and can't be extended by moving to a different spot. If someone is attending a meeting that would be all morning long, their only option would be off-site parking garages where longer time is allowed or metered parking where a meter must be fed every so often; is that correct? **Mr. Johnston** concurred and added that the same limited parking hours apply to metered parking around the Capitol.

**Senator Winder** said he understands the intent. However, there is a problem when someone leaves and returns to find their space taken.

**Mr. Johnston** stated that the Capitol mall lots are not metered spaces and are not monitored. There is no way of knowing if people using visitor parking are doing Capitol Mall business or something else.

**Senator Lakey** asked why visitors cannot change spaces if there are open spaces available. **Mr. Johnston** said that has been the practice in the past. However, having limits would better fit the needs for Capitol Mall visitors. **Senator Lakey** said that it would be reasonable that if a visitor couldn't find another empty space, they would have to move the vehicle to another parking facility but if there was space available, it should be okay to move to that space. **Mr. Johnston** gave an example using the law learning center and the projected 180 students that could impact the visitor parking and why limits should apply.

**Senator Siddoway** stated that he has received tickets for parking on the street when his space has been occupied; there is no way out of paying those parking tickets. The same has happened at the parking garage. He is not asking for special favors, he comes to Boise to do the people's business. There is justification for some latitude in the visitor parking area.

**Mr. Johnston** presented the last modification in the parking rules providing for public meeting permits. It allows the host of a meeting to obtain parking permits at certain locations within the Capitol Mall. In addition, as part of the updates, the violation language was modified.

**Senator Davis** questioned the proposal in 040.02.b.ii that provides for the University of Idaho (U of I) employees who are assigned to the Capital Mall Annex. **Mr. Johnston** explained that this paragraph is for state employees who are not paid through the State Controller's Office, so they can't be included in the automatic deduction program. This allowed the staff at U of I who are employed within the Capital Mall to buy a general parking pass.

**Senator Davis** asked if the proposed three-hour rule was rejected, would subsection 040.02.g be necessary? **Mr. Johnston** responded that if there was not a rule, there would not be a violation.

**Vice Chairman Lodge** asked how much employees pay for parking spaces per month. **Mr. Johnston** answered that there are two levels of services for the Capitol Mall Parking Program. There is the general parking permit at \$8 per month and the reserved space at \$35 per month.

**Senator Lakey** referred to legislators' parking spaces in subsection 022.02.b, page 30. If the reserved space is occupied and the legislator goes to the top floor at the garage, is that a violation of this new language? **Mr. Johnston** stated that if the legislator called the security number and reported the situation, they would ensure it would not be a violation. **Senator Lakey** asked if space is limited in the new parking structure during the session. **Mr. Johnston** responded that having the new parking structure has reduced stress in finding parking. There is still an average of 100-160 people that need parking spaces. There are 1,600 parking spaces and between 1,700 and 1,800 people needing space. During the session those spaces are much more in demand.

**Vice Chairman Lodge** asked what the rate is for city garages. **Mr. Johnston** said that reserved parking through city or private properties range from \$70-\$100. **Senator Winder** added that he parks in one of the off-site garages and it is currently \$100. He just received notice that it will increase to \$140 per month. There are some that are as much as \$170 per month.

**MOTION:**

**Senator Davis** moved to approve **Docket No. 38-0404-1501**, with the following exceptions: on page 30 reject **subsection 022.02.b**; on page 32 reject **subsection 022.08.d**; and on page 34 reject **subsection 040.02.g and h**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.  
38-0407-1501**

38.04.07 Rules Governing Use of the Interior of State Property in the Capitol Mall and Other State Facilities.

**Mr. Johnston** explained that the Capitol Mall Annex building is now on line, it is occupied, and the doors are opened to the public. All of the interior rules where the Capitol Mall Annex was identified as being closed to the public have been stricken from the rules.

**Mr. Johnston** stated that there are Capitol Mall Annex exterior rules and there are Capitol Mall building interior rules. These rule modifications are for the Capitol Mall Annex interior rules only. **Mr. Johnston** further explained that when the rules were written, the Capitol Mall Annex was in construction. It was removed from the Capitol Mall properties rules because there wasn't a need to provide rules for a building that was under construction. Once the building was put back on line, then it needed to operate under the same rules as the rest of the Capitol Mall properties.

**Senator Stennett** asked for more clarity.

**Senator Hill** explained that these rules state what is not part of the Capitol Mall properties, similar to the State Capitol. By taking the Capitol Mall Annex out of the exceptions, it identifies it as a Capitol Mall property. **Mr. Johnston** agreed. That is exactly what they are doing. It is being added back as part of the Capitol Mall properties.

**MOTION:**        **Senator Siddoway** moved to approve **Docket No. 38-0407-1501**. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

**Chairman McKenzie** thanked Mr. Johnston for appearing before the Committee and answering all of the questions.

**ADJOURNED:**   **Chairman McKenzie** announced that the Committee will meet next week on Monday and Friday but there will not be a meeting on Wednesday. There being no further business, **Chairman McKenzie** adjourned the meeting at 8:58 a.m.

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Senator McKenzie  
Chair

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Twyla Melton  
Secretary

AMENDED AGENDA #1  
**SENATE STATE AFFAIRS COMMITTEE**  
8:00 A.M.  
Room WW55  
Monday, January 18, 2016

SUBJECT	DESCRIPTION	PRESENTER
INTRODUCTION OF INTERN	Emily Richards	Senator McKenzie
	<b>IDAPA 34 – OFFICE OF THE SECRETARY OF STATE</b>	Tim Hurst, Chief Deputy Office of the Secretary of State
Docket No. <a href="#">34-0201-1501</a>	34.02.011 – Presidential Primary (Chapter Repeal)	
<a href="#">RS24091</a>	RELATING TO ELECTIONS to address procedures related to the Presidential Primary Election regarding write-in candidates, ballots with one presidential candidate and moving the cut-off date for changing party affiliation.	Tim Hurst, Chief Deputy Office of the Secretary of State

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman McKenzie  
Vice Chairman Lodge  
Sen Davis  
Sen Hill  
Sen Winder

Sen Siddoway  
Sen Lakey  
Sen Stennett  
Sen Buckner-Webb

COMMITTEE SECRETARY

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MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Monday, January 18, 2016

**TIME:** 8:00 A.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Lodge, Senators Davis, Hill, Winder, Siddoway, Lakey, Stennett and Buckner-Webb

**ABSENT/  
EXCUSED:** None

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**CONVENED:** **Chairman McKenzie** called the Senate State Affairs Committee (Committee) to order at 8:00 a.m. with a quorum present. He introduced Emily Richards, who will be serving as an intern for the Committee. Emily is working on her MBA and is currently taking a course from former Representative Wendy Jaquet

**Chairman McKenzie** introduced Tim Hurst, Chief Deputy, Office of the Secretary of State.

IDAPA 34 - OFFICE OF THE SECRETARY OF STATE  
34.02.011 - Presidential Primary (Chapter Repeal)

**DOCKET NO. 34-0201-1501** **Mr. Hurst** stated that this docket deals with the repeal of a 1993 rule relating to the presidential preference primary. When the law was changed in 2012, these rules should have been repealed at that time because they no longer applied. The intent is to repeal the rules, making the changes effective for this year's presidential preference primary.

**Senator Lakey** asked if the repeal of this chapter only affects write-in candidates.

**Mr. Hurst** answered that it addresses forms that are no longer used as well as eliminating requirements for write-in candidates and delegates that are no longer part of the statute.

**MOTION:** **Senator Winder** moved to approve **Docket No. 34-0201-1501**. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

**RS 24091** RELATING TO ELECTIONS to address procedures related to the Presidential Primary Election regarding write-in candidates, ballots with one presidential candidate and moving the cut-off date for changing party affiliation.

**Mr. Hurst** explained that this legislation addresses the presidential primary election that will be held in March of 2016.

1. The RS states that no one can file as a write-in candidate for the presidential primary. The recommendation is that the language be changed in statute to specifically say that no write-in candidates are allowed in the presidential primary and if there should be a write-in candidate, those votes would not be counted.
2. If only one candidate files for office for the presidential primary, it will not be necessary to print a ballot. That is the rule in the primary election and should be the same for the presidential primary election.

3. Changing party affiliation. The statute isn't clear that the cut off date for changing party affiliation applies to the presidential primary election. The intent of the bill is to have a specific date set for changing party affiliation or to become unaffiliated. The date would be moved to the second Friday of February in even numbered years. That puts the date before the presidential primary and ahead of the primary election. There is an emergency clause attached to make it applicable to the 2016 primary election. There will be less confusion for the voters, the elected officials, the Secretary of State and the chief deputy.

**Senator Stennett** questioned whether the opportunity to be a write-in candidate should be removed from the process. **Mr. Hurst** answered that someone could still be a write-in candidate for the general election. This just addresses the presidential primary election in Idaho. The name will not appear on the ballot and no fees are attached; they could only be on the ballot if they had an actual campaign in progress and even then it would be left to the discretion of the Secretary of State. Legislation passed last year requires a \$1,000 filing fee in order to be on the ballot for a presidential primary election.

**Senator Hill** asked if there was a possibility for litigation challenges for denying constitutional rights of access to the ballot. **Mr. Hurst** responded that it is a primary election, not the actual election; they are confident that will not happen. Hawaii doesn't allow any write-in candidates and that issue has gone before the U.S. Supreme Court and was not an issue.

**Senator Hill** stated his concern with the time element. How long do we have to get this through? **Mr. Hurst** answered that the deadline would be February 12th in order to change party affiliations.

**Senator Siddoway** asked how much a candidate would have to pay to get their name on the ballot. **Mr. Hurst** answered that they would file a declaration of candidacy with the Secretary of State's office and pay a \$1,000 filing fee. **Senator Siddoway** asked if someone was currently running a write-in candidacy, would they have to pay the \$1,000? **Mr. Hurst** responded that their name does not appear on the ballot as a write-in and so they do not have to pay the filing fee; they only have to file a declaration of intent to be a write-in.

**Senator Lakey** asked for the steps needed to affiliate. **Mr. Hurst** said that if they are unaffiliated, they can be unaffiliated up to and including election day. Before they can vote in a Republican primary, they would have to affiliate with the Republican party. They can do that at the polls by stating that they want to vote as a Republican and check the appropriate box on the form to show that affiliation. Under this legislation, they are affiliated to that party from that point on until after the primary election in May, at which time they can become unaffiliated again.

**MOTION:** **Senator Winder** moved to send **RS 24091** to print. **Senator Hill** seconded the motion.

**Senator Lakey** intends to send this RS to print. However, he voiced his concerns about limiting the ability to vote for a particular candidate. The result, some voices would not be counted.

The motion carried by **voice vote**.

**ADJOURNED:** There being no further business, **Chairman McKenzie** adjourned the meeting at 8:17 a.m.

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Senator McKenzie. Chair

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Twyla Melton, Secretary

AMENDED AGENDA #1  
**SENATE STATE AFFAIRS COMMITTEE**  
**8:00 A.M.**  
**Room WW55**  
**Friday, January 22, 2016**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#"><u>RS24029C1</u></a>	<b>RELATING TO THE EMERGENCY COMMUNICATIONS ACT</b> to consolidate governance for emergency and public safety communications.	Brigadier General Brad Richy, Idaho Military Division
PRESENTATION:	Pacific Northwest Economic Region on Cyber Security	Brigadier General Brad Richy, Idaho Military Division
Docket No. <a href="#"><u>15-0603-1501</u></a>	<b>IDAPA 15 OFFICE OF THE GOVERNOR MILITARY DIVISION – BUREAU OF HOMELAND SECURITY</b> 15.06.03 Public Safety Communications Systems Installation and Maintenance Fee Rules – page 17	Captain Steve Stokes, Public Safety Communications Idaho Military Division
Docket No. <a href="#"><u>11-0406-1501</u></a>	<b>IDAPA 11 – IDAHO STATE POLICE – IDAHO STATE RACING COMMISSION</b> 11.04.06 Rules Governing Racing Officials – page 3	Ardie Noyes, Management Assistant – Idaho State Police
Docket No. <a href="#"><u>11-0411-1501</u></a>	11.04.00 Rules Governing Equine Veterinary Practices, Permitted Medications, Banned Substances and Drug Testing of Horses – pages 9 and 12 respectively	
Docket No. <a href="#"><u>11-0411-1502</u></a>		
Docket No. <a href="#"><u>31-1101-1501</u></a>	<b>IDAPA 31 – IDAHO PUBLIC UTILITIES COMMISSION</b> 31.11.01 Safety and Accident Reporting Rules for Utilities Regulated by the PUC – page 20	Paul Kjellander, Idaho Public Utilities Commission (PUC)
Docket No. <a href="#"><u>31-7103-1501</u></a>	31.71.03 – Railroad Safety and Accident Reporting Rules – page 23	

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman McKenzie	Sen Siddoway
Vice Chairman Lodge	Sen Lakey
Sen Davis	Sen Stennett
Sen Hill	Sen Buckner-Webb
Sen Winder	

COMMITTEE SECRETARY

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MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Friday, January 22, 2016

**TIME:** 8:00 A.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Lodge, Senators Davis, Hill, Winder, Siddoway, Lakey, Stennett and Buckner-Webb

**ABSENT/ EXCUSED:** None

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**CONVENED:** **Chairman McKenzie** called the Senate State Affairs Committee (Committee) to order at 8:00 a.m. with a quorum present. He introduced Brigadier General Brad Richy to present the first item on the agenda.

**RS 24029C1 RELATING TO THE EMERGENCY COMMUNICATIONS ACT** to consolidate governance for emergency and public safety communications.

**Brigadier General Brad Richy**, Bureau of Homeland Security, Idaho Military Division, explained that they are the agency responsible for the administrative support for the Emergency Communications Commission, the Statewide Interoperability Executive Council and the FirstNet Advisory Group. This proposed legislation seeks to reorganize the governance for emergency and public safety communication by eliminating one commission and one advisory group. The current structure is fragmented and lacks the opportunity for strategic planning across the components of public safety communication. The proposal represents 17 months of collaboration between state, county and local representatives as well as emergency and first responders. In addition to consolidating the committees, it reduces the number of commissioners from 53 to 18 and eliminates multiple commissioners with overlapping memberships in different committees.

**MOTION:** **Senator Hill** moved to send **RS 24029C1** to print. **Senator Winder** seconded the motion.

**Senator Stennett** stated that there are some questions about this legislation that should be discussed.

The motion carried by **voice vote**.

**PRESENTATION: Pacific Northwest Economic Region (PNWER) on Cyber Security**

**Megan Levy**, Program Manager for PNWER, stated that they are a nonprofit organization in the Northwest that brings together public and private sectors from the United States (U.S.) and Canada to talk about any major economic issue facing their shared economies. Cyber security is one issue covered through the Center for Regional Disaster Resilience. The Idaho Bureau of Homeland Security approached PNWER to investigate forming an Idaho Disaster Resilience Partnership (Partnership). The three-year project was launched in 2014 and two events have been conducted: 1) a workshop attended by 103 and hosted by Hewlett Packard (HP) focusing on the implications of a cyber attack; and 2) an exercise attended by 130 participants that was built on the first event and opened discussions between mixed sectors to talk about the intersection of cyber security and infrastructure security (attachment 1).



The goal at the end of three years is to have a partnership in place and a comprehensive action plan focusing on all critical infrastructure sectors. Upcoming events will focus on cyber security for small businesses to develop a roadmap to grow and share resources and best practices across Idaho. **Ms. Levy** presented the Idaho Cybersecurity Workshop Recommendations (attachment 2).

**Brigadier General Richy** explained that the relationship with PNWER has brought individuals from across the state representing local, county, state and federal agencies as well as public and private sectors to collaborate and discuss issues important to all of them. Developing relationships has increased the ability to reach out to companies like Micron who maintain their systems throughout the world. The Governor's Idaho Cybersecurity Task Force will address potential litigation against individuals both in or out of the state and that the partnership with PNWER is strong and he hopes will be able to continue doing the workshops around the state. Currently they collaborate with Washington and are working with Oregon, Wyoming and Montana.

**Reid Stephan**, Chief Information Security Officer, St. Lukes Health System, explained that he has been involved in cyber security for more than 16 years and has watched the increase in awareness of this topic. He approaches the challenges of cyber security as a people problem. Ultimately a single employee, intentionally or unintentionally, can circumvent a variety of controls and investments made in cyber security resources. A large amount of effort has to be directed to increase awareness and to train employees and civilians because systems are interconnected. He is also a proponent of information sharing. There is a good core nucleus of security professionals in the Treasure Valley who gather together and share information.

**Senator Winder** asked if most breaches have been because an employee released information. **Mr. Stephan** concurred.

**Chairman McKenzie** stated that PNWER does very well in collaborating. Experts from the region are sharing information through this partnership and it is becoming a huge resource.

#### **IDAPA 15 - Office of the Governor - Military Division - Bureau of Homeland Security**

##### **15.06.03 Public Safety Communications Systems Installation and Maintenance Fee Rules**

**DOCKET NO.  
15-0603-1501**

**Captain Steve Stokes**, Attorney Advisor to the Adjutant General, Idaho National Guard, representing Major General Gary Sayler, Adjutant General for the State of Idaho and Commanding General of the Idaho National Guard in charge of Safety Communications, Idaho Military Division (IMD).

The Public Safety Communications Branch (PSC) is tasked with maintaining the emergency operations center and microwave communications systems in use by the IMD, as well as radios and computers used by other state agencies. The PSC also maintains all state-owned information technology (IT) systems used by the IMD. Organizational changes within the IMD have rendered the current rule inaccurate. The PSC is no longer part of the Bureau of Homeland Security; they now report to the executive officer of the Administration Division of IMD.

In addition to the administrative change, two distinct functions within IMD have been combined to increase capacity within the organization. It puts people with similar jobs together which will increase the overall quality and output of their workflow. This will reduce confusion in or out of the IMD resulting in proper accounting for budgetary purposes.

**MOTION:** **Senator Siddoway** moved to approve **Docket No. 15-0603-1501**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

## **IDAPA 11 - Idaho State Police - Idaho Racing Commission**

### **11.04.06 Rules Governing Racing Officials**

**DOCKET NO.**  
**11-0406-1501**

**Ardie Noyes**, Management Assistant, Idaho State Racing Commission (Commission), reported that this rule simplifies the selection of stewards required to preside over live race meets. In the past, two stewards were hired and paid by the Commission, and one steward was hired and paid by the on-site racetrack management. The rule change will give the Commission authority to hire and compensate all stewards and appoint a presiding steward to oversee hearings and designate duties for the other stewards. This would establish consistency for the selection process and equal protection for stewards in the case a lawsuit was brought against them. The change makes all stewards part-time, seasonal employees of the Commission at a cost of \$24,000 per year, which will be provided for out of dedicated funds utilized by the Commission.

**Senator Stennett** asked why the \$24,000 additional salary was not reflected in the fiscal note. **Ms. Noyes** responded that they do not have an executive director and, because of that salary savings, additional funding is not needed.

**Senator Davis** inquired about the contractual relationship between the Commission and the deputy stewards. **Ms. Noyes** replied that it was not a contractual arrangement. Stewards are hired as Idaho State Police (ISP) part-time, seasonal employees. **Senator Davis** couldn't find any language for an employee in the proposed rule. **Ms. Noyes** answered that the change from contractual to employee was made many years ago upon the recommendation of the State Controller's Office, because the state required the employee to be on the premises and ISP provided them with a computer to do their work. That met the Fair Labor Standards Act (FLSA) requirements to be recognized as an employee.

### **11.04.00 Rules Governing Equine Veterinary Practices, Permitted Medications, Banned Substances and Drug Testing of Horses**

**DOCKET NO.**  
**11-0411-1501**

**Ms. Noyes** explained that this is a rule change that was implemented on July 29, 2015. The previous IDAPA Rule 11.04.11.140.03 required a horse owner or trainer to specifically request the racing veterinarian to collect additional blood on each individual horse to initiate the split-sample testing process. This temporary rule will remove the specific request requirement and give the Commission the authority to collect and store split blood samples on every racehorse that is tested following a race. This gives the owner or trainer the option of conducting additional testing at a second laboratory in the event banned substances are detected by the primary laboratory.

The additional samples will be collected and stored by the veterinarian at the testing barns. All costs associated with the collection of samples will be covered by the Commission. The fiscal impact related to this rule change was a one-time \$1,500 purchase of equipment to process and store blood.

**Senator Winder** asked what type of security was in place for transferring the samples from the primary to the referee lab. **Ms. Noyes** deferred to Dr. Scott Leibsle, Idaho State Racing Commission's head veterinarian.

**Dr. Leibsle** explained that there are two sets of blood samples collected on a horse after a race. One sample is sent immediately after the race to the primary lab for testing, and the second set is kept in storage in a locked

freezer. The key is in the hands of the veterinarian at all times. Upon request to initiate the split-sample testing process by an owner or trainer, he will retrieve the sample and transfer it to the laboratory of choice. The chain of custody is maintained because the blood samples are never out of the veterinarian's control. During the shipment process, specialized locked coolers are utilized.

**Senator Davis** called attention to 11-0311-1502 subsection 160.03 that states that shipments are mailed only on Monday, Tuesday or Wednesday, which indicates the use of the U.S. Postal Service exclusively. Is that who is used exclusively? **Ms. Noyes** replied that they use FedEx. **Senator Davis** suggested that at some point the word "mailed" be stricken and the word "shipped" inserted.

**Senator Davis and Senator Siddoway** both said they had concerns regarding the stricken language in 11-0411-1501 subsection 140.03 and replacement and stricken language in 11-0411-1502 subsection 160 and 161.

**Dr. Leibsle** said the language is stricken from subsection 140 because it states the owner must physically request the additional sample. The change gives authority to the Commission to collect blood on every horse. Nothing else is changing. The shipping cost and testing services are still remaining the responsibility of the owner or trainer.

**DOCKET NO.  
11-0411-1502**

**Ms. Noyes** stated that the change in this rule restructures the current split-sample testing rules with the intention of bringing additional clarity and detail for horse owners and trainers and to achieve consistency with procedures that are used by other horseracing jurisdictions. By defining specific rules and establishing reasonable deadlines to conduct testing, Idaho horse owners and trainers will have a clearer understanding of the process. Explanation of definitions, testing requests, time constraints, lab availability, shipping, unforeseen circumstances and interpretation of test results provide horsemen with information to make informed decisions. The Commission recognizes the need to standardize drug testing protocols by having Idaho horseracing rules coincide with industry standards. Horse owners and trainers race their horses at nine different tracks in Idaho as well as at tracks in the surrounding Western states. These rules are consistent with most of those racing jurisdictions.

**Senator Davis** asked for an explanation of subsection 160.04 - Unforeseen Circumstances. **Dr. Leibsle** responded that current rules do not provide for any unforeseen circumstances. They have tried to include how the stewards and the Commission would deal with those situations.

**Senator Davis** asked if there was a backup generator or delivery system to preserve the blood samples in case of an incident. **Dr. Leibsle** answered, speaking only for Les Bois Park, that there is not a backup generator. If that is a concern, they could find a place to keep the samples with a secondary power source.

**Senator Lakey** asked if the testing request should be made formally and in writing and delivered to the stewards, is there a central address for them? The testing request also says it should "not be later than three business days after the trainer of the horse receives the written notice." How does the trainer get that notice?

**Ms. Noyes** explained that the stewards are on the racetrack from the beginning to the end of a meet. They notify the stewards by email or fax that there has been a "bad" test. The stewards then start their process for written notification to the owner and trainer.

**Senator Lakey** asked if there has ever been a problem with the owner or trainer saying they didn't get the notice. **Ms. Noyes** said she has not seen that happen. The stewards not only contact the owner or trainer, they contact the Commission, who immediately sends a notice out by certified mail.

**Senator Siddoway** asked if there are in-state labs. **Ms. Noyes** stated that there are no in-state labs.

**Vice Chairman Lodge** asked if blood samples are taken from every horse in every race. What is the cost and the number of CCs (cubic centimeters) required and where is the blood drawn from? **Dr. Leibsle** explained that, typically, four blood tubes, 10 CCs each, are collected from every winner of every race. Three are sent to the primary lab where they spin down and freeze one tube and store it on-site. He says the safest place to draw from is the horse's neck. **Ms. Noyes** stated that the cost to process the blood samples is \$52 for each sample.

**Senator Hill** asked if the rules dealing with instant horseracing are under the purview of the Commission and if so, where are they being repealed? **Ms. Noyes** said they are under the Commission, but at this time she has not been told to repeal them. **Senator Hill** indicated that the Legislature had required those rules to be repealed. **Ms. Noyes** explained that, as management assistant, she waits for instructions on what steps to take. No one has instructed her to take that step.

**MOTION:** **Vice Chairman Lodge** moved to approve **Docket Nos. 11-0406-1501, 11-0411-1501 and 11-0411-1502**. **Senator Buckner-Webb** seconded the motion. The motion carried by **voice vote**.

### **IDAPA 31 - Idaho Public Utilities Commission (PUC)**

#### **31.11.01 Safety and Accident Reporting Rules for Utilities Regulated by the PUC**

**DOCKET NO.**  
**31-1101-1501**

**Paul Kjellander**, Commissioner, Idaho Public Utilities Commission, explained that, after discussions with the Division of Building and Safety (Building and Safety) and others, they are requesting that the Committee adopt Docket 31-1101-1501 except that they reject and remove codified subsections 202 and 203. It makes more sense to have Building and Safety deal with those rule sets. With this change, in the future, both entities will be working under the same set of rules.

**Senator Stennett** asked if, by rejecting 202 and 203, there is something still in place that would cover those items. **Mr. Kjellander** provided some historical information and explained the timing issues in meeting code requirements that have occurred. Utilities are a smaller pool than contractors, and it makes more sense for Building and Safety to take care of these sections. The majority of the changes are minor and won't have a significant impact.

**MOTION:** **Senator Hill** moved to approve **Docket 31-1101-1501 except to reject and remove codified sections 202 and 203**. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

**Senator Davis** asked if Dennis Stevenson would yield to a question about the State Racing Commission. **Senator Davis** said that research shows that prior to the Idaho Supreme Court ruling, the Racing Commission had began negotiated rulemaking regarding where instant horseracing could occur. **Mr. Stevenson** agreed. **Senator Davis** asked if, after the Supreme Court ruling, there was enough time for the Racing Commission to have promulgated rules repealing the instant horseracing rules? **Mr. Stevenson** said he was certain the Racing Commission could have promulgated a temporary rule to remove those sections. **Senator Davis** asked if they used pending rulemaking, was there sufficient time for the Racing Commission to promulgate and submit those rules to the Legislature for review? **Mr. Stevenson** was not exactly certain when the Supreme Court decision was made, but the submission deadline for proposed rulemaking is the end of August. That puts those proposed rules into the October bulletin, which allows time for public hearings before review by the Legislature.

**31.71.03 Railroad Safety and Accident Reporting Rules**

**DOCKET NO. 31-7103-1501** **Mr. Kjellander** stated that they are essentially adopting, by reference, the update to the federal rules. The most interesting change is dealing with ethanol alcohol, which is also the alcohol in whiskey. Some of the designations will be changed.

**MOTION:** **Senator Winder** moved to approve **Docket 31-7103-1501**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

**ADJOURNED:** There being no further business, **Chairman McKenzie** adjourned the meeting at 9:02 a.m.

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Senator McKenzie, Chair

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Twyla Melton, Secretary

# Idaho Partnerships FOR DISASTER RESILIENCE



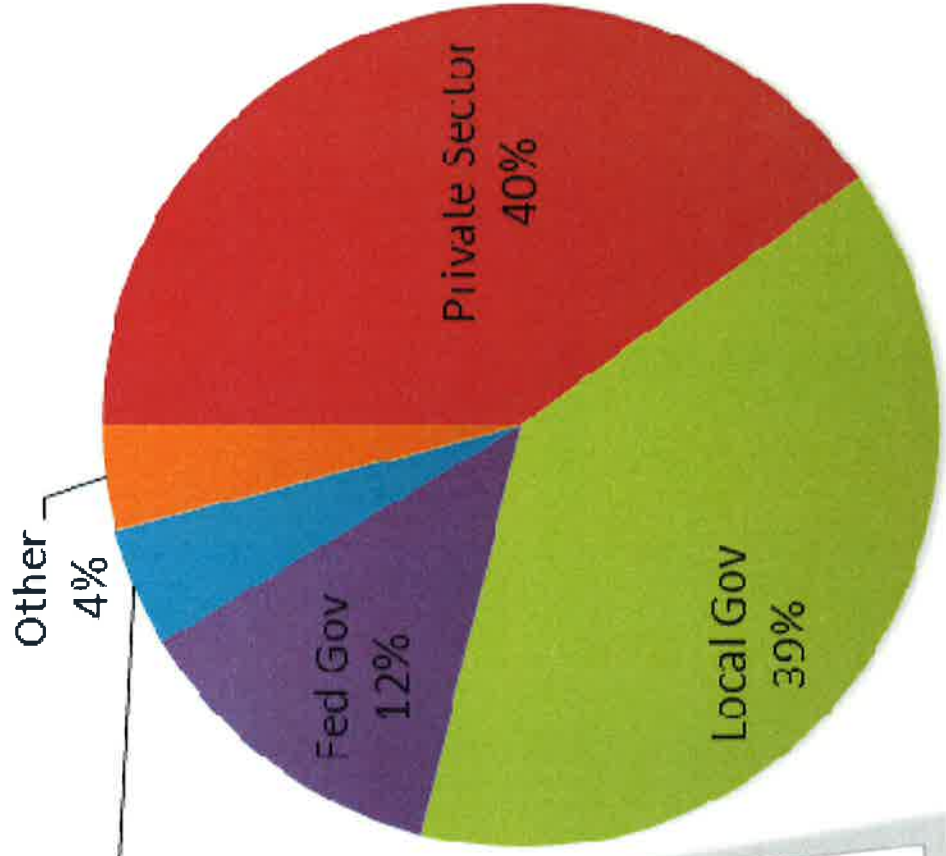
# Planning an Idaho Disaster Resilience Partnership

- Three year project launched in 2014 between Idaho Bureau of Homeland Security and PNWER
- Two events to date:
  - November 2014 Idaho Cyber Security Interdependencies Workshop
  - October 2015 Idaho Cyber Security Interdependencies Exercise



# Forming an Idaho Disaster Resilience Partnership

- October 8, 2015 Event – 130 Total Participants







# Forming an Idaho Disaster Resilience Partnership

**Purpose** to advance cross-sector initiatives which facilitate public-private, cross jurisdictional regional efforts to develop a disaster resilient state and region.

In the face of emerging risks to economic and national security, action is needed to address crucial regional infrastructure interdependencies in energy, telecommunications, IT, transportation, water systems and other infrastructures.

# Forming an Idaho Disaster Resilience Partnership

## Objective

The main objective of the Partnership is to develop a comprehensive action plan focusing on issues that critical infrastructure sectors have in common such as interdependency-related vulnerabilities and risk management, information sharing, legislative and public policy formulation, research and development, and strategic coordination.

# Next Steps

- February 10 & 11: Cyber Security for Small Businesses Seminar in Post Falls, Idaho
- Developing a roadmap to grow partnerships around disaster resilience – cyber and beyond
- Sharing resources and best practices across Idaho
- September 12: Final workshop in the three year series



# IDAHO CYBERSECURITY Workshop Recommendations

**Drawing on the content of workshop presentations, scenario driven discussion, participant feedback, and interviews with stakeholders, the following recommendations were developed from the 2014 and 2015 Idaho Cybersecurity Interdependencies Workshops. These recommendations act as a guide for activities and content for the 2016 event.**

- Educate employees at all levels of an organization to understand the role cyber systems play in their business--how much and what kind of data is stored there, what they impact, and how they help them to complete mission critical tasks--as well as their role in keeping those systems secure and functioning.
- Integrate cyber security with physical security as part of a company-wide security integration.
- Utilize resources to check your policies and train your staff. The FBI is willing to provide briefings, and ICS-CERT has self-assessment tools
- Develop a cyber policy, train your employees in it, and develop performance measures around it.
- Identify your mission critical systems and simulate system outages and how to respond. Identify ways you could segment these systems from the remainder of your network.
- Use the same tools as hackers to test your system. This might mean incentivizing employees to find security gaps, or performing cursory research and hacks on your own systems.
- Develop training materials and regular webinars and other training opportunities to help organizations grow cyber security plans and facilitate information sharing.
- Provide training for executive leadership, legal departments, human resources, and other key departments to encourage organization-wide cyber security.
- Grow state-wide knowledge of the Idaho cyber security annex through training and outreach.
- Provide resources specific to small businesses and sectors where cyber security may not be prioritized (example: agriculture).
- Develop a single repository for cyber security preparedness information
- Develop formal partnership for information sharing around cyber security and other critical infrastructure concerns

AGENDA  
**SENATE STATE AFFAIRS COMMITTEE**  
**8:00 A.M.**  
**Room WW55**  
**Wednesday, January 27, 2016**

SUBJECT	DESCRIPTION	PRESENTER
GUBERNATORIAL APPOINTMENTS:	The Gubernatorial Appointment of Bob Geddes as Director of the Department of Administration  The Gubernatorial Appointment of Eric Anderson to the Public Utilities Commission	
<a href="#">RS24088</a>	RELATING TO CODIFIER CORRECTIONS	Katherine Gerrity, Legislative Branch
<a href="#">RS24224C1</a>	RELATING TO THE RACING COMMISSION to direct the Racing Commission to make certain payment to the Idaho Horse Council under specified conditions.	Senator Jim Rice
<a href="#">RS24110</a>	RELATING TO PUBLIC WORKS CONTRACTS to add clarification to the Construction Managers and General Contractors law passed during the 2014 session.	Senator Todd Lakey
MINUTES APPROVAL:	Minutes of January 15	Senators Lodge and Siddoway
MINUTES APPROVAL:	Minutes of January 18	Senators Lakey and Buckner-Webb

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman McKenzie	Sen Siddoway
Vice Chairman Lodge	Sen Lakey
Sen Davis	Sen Stennett
Sen Hill	Sen Buckner-Webb
Sen Winder	

COMMITTEE SECRETARY

Twyla Melton  
Room: WW42  
Phone: 332-1326  
email: [sstaf@senate.idaho.gov](mailto:sstaf@senate.idaho.gov)

MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Wednesday, January 27, 2016

**TIME:** 8:00 A.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman McKenzie, Senators Davis, Hill, Siddoway, Lakey, Stennett and Buckner-Webb

**ABSENT/ EXCUSED:** Vice Chairman Lodge and Senator Winder

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**CONVENED:** **Chairman McKenzie** called the Senate State Affairs Committee (Committee) to order at 8:10 a.m. with a quorum present. He introduced Bob Geddes, former Senate President Pro Tempore.

**GUBERNATORIAL APPOINTMENT:** The Gubernatorial Appointment of Bob Geddes as Director of the Department of Administration.

**Mr. Geddes** explained that it has been an exciting six months since he accepted the appointment as Director of the Department of Administration (Department). He found that the Department has an incredibly talented staff. He also addressed the many diverse responsibilities of the Department. It is very much like serving in the Legislature; you cannot focus on any one problem for very long. There are always other developing issues and needs. He applauded state employees who are hard working and dedicated; he believes they have been underappreciated over the years based on what they do and the quality of work they perform.

**Senator Stennett** asked for information about the more challenging issues. **Mr. Geddes** stated that the biggest challenge for the Department is overcoming the shadow of the impact of the Idaho Education Network (IEN) lawsuit.

**Senator Davis** inquired about Mr. Geddes' letter to Governor Otter dated May 28, 2015, in which he committed to avoid potential conflicts of interest. Have conflicts arisen and, if so, how have they been resolved? **Mr. Geddes** said that past employment has not created a conflict of interest. He primarily has been employed in private industry; in most cases the Department provides services to other state departments and agencies except for purchasing. He doesn't get involved in the bidding process because, under statute, he is the individual required to address an appeal if one should occur. Potentially, that would be the conflict of interest most frequently encountered. **Senator Davis** asked what would happen if he were to be confronted with such a situation.

**Mr. Geddes** stated he would recuse himself. However, there is the question of a statutory alternative. He has named a deputy director, Keith Reynolds, who is well qualified, and Mr. Geddes believes he could defer those decisions to Mr. Reynolds. **Senator Davis** asked if Mr. Geddes and Mr. Reynolds would review the statute and determine if the Legislature should provide them with plain, statutory language for an alternative. **Mr. Geddes** agreed. There should be clarification as to how that would occur.

**Senator Hill** discussed Department interaction with the Legislature, specifically Department reluctance to address policy issues. He asked Mr. Geddes about his thoughts on this matter. **Mr. Geddes** related his experience. When he left



the Legislature, he thought he understood state government. However, it is a different world on the other side and, as Legislators, that side is not always understood. State employees work very hard to adhere to policy established in state code. Often it is hard to discern the intent of the Legislature. He would admonish the Legislature, having been a member, to establish very clear policy that does not require rules. Statutes are always easier for the citizens of the State of Idaho to discern than rules. He is a strong advocate of clear statutory policy. This could be an opportunity to work with the Legislature to develop clear policy so that it can be implemented more effectively.

**Senator Stennett** asked about his arrangement with Monsanto. **Mr. Geddes** said he is fully retired from Monsanto.

**Chairman McKenzie** stated his appreciation to Mr. Geddes and he welcomed Eric Anderson to the Committee.

**GOVERNMENTAL APPOINTMENT:** The Governmental Appointment of Eric Anderson to the Public Utilities Commission (PUC).

**Chairman McKenzie** disclosed that he was on the short list for this position and stated that the Governor had made an excellent choice. He acknowledged Mr. Anderson as a former Representative and asked him to touch on his background in energy, including some of his international efforts on that topic.

**Senator Davis** referred to Mr. Anderson's resume, which indicates that he was Vice President and Director of Northern Lights, Inc., from 1998 to present. Are you still an officer and director of any regulated entity that might come before the PUC? **Mr. Anderson** replied that he is not a current member of any regulated or non-regulated utility. He has tendered his resignations, and replacements have already been selected. **Senator Davis** stated that Mr. Anderson's letter of resignation included language that the resignation was subject to formal confirmation by the Senate. However, the entities to which Mr. Anderson submitted qualified resignations have chosen not to accept them as "qualified" but as "unqualified" resignations and they have replaced Mr. Anderson. **Mr. Anderson** agreed and added that it was at his recommendation that they not wait for a hearing to fill the vacancies.

**Mr. Anderson** elaborated on his past experience. He has been a board member of Northern Lights, Inc., for the past 20 years and served on the statewide board of Electric Cooperatives and Municipalities as well as the national board for that organization. That experience has prepared him for many aspects of policy and to act in the capacity of adjudicator and regulator. He was also a member of a team that went to Croatia, when the country separated from Russia, to help re-establish power generation and transmission systems that were in complete disarray. They were able to guide them so that, ultimately, their systems were independently owned.

**Mr. Anderson** said that energy has long been part of his life and he is actively engaged in all things energy. He served on the 2007 Energy Plan, he was chairman of a subcommittee on renewables and generation and served in the Legislature for ten years, from 2004 to 2014.

**Chairman McKenzie** noted that he and Mr. Anderson worked together on a number of issues. Mr. Anderson was modest in describing his accomplishments. He worked with invasive species both during his time in the Legislature and in his travels internationally. He worked to acquire federal funding to expand inspection stations to abate the spread of aquatic invasive species.

**Mr. Anderson** said that was all in cooperation with Chairman McKenzie, this Committee and the Legislature.

**RS 24088**      **RELATING TO CODIFIER CORRECTIONS** presented by Katherine Gerrity. There was no discussion.

**MOTION:**      **Senator Davis** moved to send **RS 24088** to print. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

**RS 24224C1**      **RELATING TO THE RACING COMMISSION** to direct the Idaho Racing Commission to make a certain payment to the Idaho Horse Council under specified conditions.

**Senator Rice**, District 10, explained that this bill creates a window of time to transfer \$143,313.69 from the Idaho Racing Commission to the Idaho Horse Council for youth related programs. This was included in the statute that was repealed last year. The money is sitting at the Racing Commission without disbursement instructions from the Legislature. The Racing Commission doesn't believe they have the authority to disperse the money for these purposes.

**Senator Stennett** asked for examples of youth programs that would be eligible to receive the funds. **Senator Rice** responded that there are scholarships for equine related studies and various types of activities to introduce youth to equine activities and events; the funds could also support an educational outreach website introducing youth to equine programs.

**MOTION:**      **Senator Siddoway** moved to send **RS 24224C1** to print. **Senator Buckner-Webb** seconded the motion. The motion carried by **voice vote**.

**RS 24110**      **RELATING TO PUBLIC WORKS CONTRACTS** to add clarification to the Construction Managers and General Contractors law, passed during the 2014 session.

**Senator Todd Lakey** stated that in 2014, **S 1311aa** allowed government entities to use a construction manager and general contractor (CMGC) process for construction on public projects. The CMGC is selected by a public process and then they assume a large degree of the management of the project from that point on. It is more efficient in time and cost for government entities that choose to use it. The proposed amendment addresses some questions that have been raised: 1) the sub-contractors would submit open, public bids and the lowest, most responsive, best qualified bidder would be selected; 2) the CMGC can also participate and submit a bid if it is within their category of work; 3) the government entity can limit the amount of work the CMGC itself can do on a project; 4) the government entity negotiates a guaranteed, maximum price; and 5) the contracts are to be in writing.

**MOTION:**      **Senator Hill** moved to send **RS 24110** to print. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

**MOTION:**      **Senator Siddoway** moved to accept the minutes of **January 15, 2016**. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

**MOTION:**      **Senator Lakey** moved to accept the minutes of **January 18, 2016**. **Senator Buckner-Webb** seconded the motion. The motion carried by **voice vote**.

**ADJOURNED:**      **Chairman McKenzie** announced that the Committee will meet on Monday and then they will be off for a couple of days. Being no further business, the meeting was adjourned at 8:24 a.m.

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Senator McKenzie, Chair

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Twyla Melton, Secretary



AGENDA  
**SENATE STATE AFFAIRS COMMITTEE**  
**8:00 A.M.**  
**Room WW55**  
**Monday, February 01, 2016**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
VOTE ON GUBERNATORIAL APPOINTMENTS:	Appointment of Bob Geddes as Director of the Department of Administration Appointment of Eric Anderson to the Public Utilities Commission	
GUBERNATORIAL APPOINTMENTS:	The Gubernatorial Re-appointment of Neil Anderson to the Idaho Endowment Fund Investment Board.  The Gubernatorial Re-appointment of M. Dean Buffington to the Idaho Endowment Fund Investment Board.  The Gubernatorial Re-appointment of Charles L. Winder to the Idaho Endowment Fund Investment Board.	
<a href="#"><u>RS24014</u></a>	RELATING TO THE IDAHO ADMINISTRATIVE PROCEDURE ACT to removed reference to certain electronic copies.	Dennis Stevenson, Department of Administration
<a href="#"><u>RS24249</u></a>	PROPOSING AN AMENDMENT TO SECTION 10, ARTICLE IV OF THE CONSTITUTION relating to governor vetoes following adjournment of the legislature.	Senator Steve Vick
<a href="#"><u>SCR 133</u></a>	STATING FINDINGS OF THE LEGISLATURE to honor Black History Month in Idaho.	Senator Cherie Buckner-Webb

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman McKenzie  
Vice Chairman Lodge  
  
Sen Davis  
Sen Hill  
Sen Winder

Sen Siddoway  
Sen Lakey  
  
Sen Stennett  
Sen Buckner-Webb

COMMITTEE SECRETARY

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MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Monday, February 01, 2016

**TIME:** 8:00 A.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Lodge, Senators Davis, Hill, Winder, Lakey, Stennett and Buckner-Webb

**ABSENT/EXCUSED:** Senator Siddoway

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**CONVENED:** **Chairman McKenzie** called the Senate State Affairs Committee (Committee) to order at 8:00 a.m. with a quorum present.

**VOTE ON GUBERNATORIAL APPOINTMENTS:** Appointment of Bob Geddes as Director of the Department of Administration  
Appointment of Eric Anderson to the Public Utilities Commission

**MOTION:** **Senator Hill** moved to send the Gubernatorial appointment of Bob Geddes as Director of the Department of Administration to the Senate floor with the recommendation that he be confirmed by the Senate. **Senator Buckner-Webb** seconded the motion. The motion carried by **voice vote**. Senator Hill will be the floor sponsor.

**MOTION:** **Senator Davis** moved to send the Gubernatorial appointment of Eric Anderson to the Public Utilities Commission to the Senate floor with the recommendation that he be confirmed by the Senate. **Vice Chairman Lodge** seconded the motion. **Chairman McKenzie** disclosed a possible conflict of interest for the record; he was considered for the appointment. The motion carried by **voice vote**. Senators McKenzie and Keough will be floor sponsors.

**GUBERNATORIAL APPOINTMENT:** The Gubernatorial reappointment of Neil Anderson to the Idaho Endowment Fund Investment Board (EFIB)  
**Chairman McKenzie** asked for an update from Neil Anderson since his last appointment. **Representative Anderson** stated that it is an honor to serve on the EFIB. Their performance has been good relative to other funds. He expressed confidence in the executives who run the fund. He is pleased to stand for reappointment.

**GUBERNATORIAL APPOINTMENT:** The Gubernatorial reappointment of M. Dean Buffington to the Idaho Endowment Fund Investment Board  
**M. Dean Buffington**, Chairman, EFIB, said he has been on the EFIB since 2001, and chairman since 2003. He echoed Representative Anderson's comments about staff, professional managers and the growth of their funds. The State Land Board has transferred funds to the EFIB from the sales of cabin lots and those are being invested. The State Judiciary Pension Fund has been turned over to PERSI, so the EFIB is no longer the manager. The EFIB is in the process of investing in some of the commercial real estate that the State Land Board is selling. The proceeds will be invested by professional managers in commercial real estate outside the State of Idaho and within the confines of the United States.

**Senator Davis** stated his pleasure that Mr. Buffington, together with his colleagues, is willing to serve in the management of these funds. He asked Mr. Buffington to speak to the issue of conflicts of interest and reassure the Committee that there is not an issue. **Mr. Buffington** acknowledged that he has been in investment related business with his previous employer, First Security Bank, and with Buffington, Mohr, McNeil (BMM) as a registered investment advisor. He has sold his interest in BMM. Currently, he is a consultant a few days a week. In regard to the conflict of interest, he has no involvement in the investing of funds involving the EFIB or any other agency in the state. The only direct or indirect compensation he receives is the fee received for quarterly board meetings.

**GUBERNATORIAL  
APPOINTMENT:**

The Gubernatorial reappointment of Charles L. Winder to the Idaho Endowment Fund Investment Board

**Chairman McKenzie** called on Senator Winder.

**Senator Winder** said he has been on the EFIB for eight years. He was appointed at the time Senator Little became Lieutenant Governor. **Senator Winder** pointed out some important facts about the EFIB:

- The EFIB is responsible for \$2.5 billion that they oversee in a variety of different funds.
- Their investment philosophy follows a 20-year investment plan.
- Over the past three years, the funds generated a return of 8.2 percent against benchmarks of 8 percent.
- The performance has done well, continues to be well managed and is ranked in the top 10 around the country

The fund is managed by a very small, efficient staff led by Executive Director Larry Johnson. They are often asked about the costs and fees to manage the fund; it is 0.43 percent per year. Most of that cost goes to fund managers to manage those funds. There are nine different land endowments, and they work closely with the State Land Board. The EFIB serves to help them in making their decisions. In order to keep funding to recipients consistent, they manage with a five-year reserve. The economy has recovered well, and the stocks have performed well against their benchmarks.

**Senator Winder** said he has enjoyed serving on the EFIB; he has learned a lot. He just returned from the Callan Institute Conference where he had the opportunity to learn from some of the country's most experienced investment professionals.

**Senator Hill** expressed his appreciation to Senator Winder, Mr. Buffington and Representative Anderson and others who serve on the EFIB board. To manage \$2.5 billion of the citizens' assets is not a small responsibility. It would cost the private sector millions of dollars to assemble a board with this kind of experience and expertise.

**Chairman McKenzie** thanked each of the speakers today for the job they have been doing for the State.

**RS 24014**

RELATING TO THE IDAHO ADMINISTRATIVE PROCEDURE ACT to remove reference to certain electronic copies.

**Dennis Stevenson**, Department of Administration, explained that **RS 24014** amends the Idaho Administrative Procedure Act, 67-5205, Idaho Code. In 2010, this section was amended eliminating the requirement that the "Idaho Administrative Bulletin" and the Administrative Code must be distributed in hard copy format.

Currently those are being distributed by CD. **Mr. Stevenson** said he did an informal survey of the users and found they were no longer using CDs and many of their computers did not have a CD/DVD drive. This legislation is to remove the requirement that CDs be sent out to the repositories listed in this section of code. People rarely request these documents, and when they do they are referred to the link on the website where this information resides.

**MOTION:**

**Senator Hill** moved to send **RS 24014** to print. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

**RS 24249**

PROPOSING AN AMENDMENT TO SECTION 10, ARTICLE IV OF THE CONSTITUTION relating to Governor vetoes following adjournment of the Legislature.

**Senator Steve Vick**, District 2, said that this legislation provides for a constitutional amendment to the Idaho Constitution that would allow the Legislature to be called back into session only for the purpose of overriding a Governor's veto that occurred after the session adjourned. This change would bring balance between the three branches of government by giving the Legislature the right to reconsider a veto that occurred after they adjourned.

**Senator Stennett** asked if this legislation has been before the Committee recently. **Senator Vick** responded that this is exactly the same legislation he brought forward in 2014 that passed the Senate and did not get a hearing in the House.

**Vice Chairman Lodge** asked about the type of issues where this action would be required. **Senator Vick** stated that it is important to have the ability to reconvene in case of a veto; it is not possible to anticipate what the issue would be. There are only six states that do not have the ability to take this action.

**MOTION:**

**Senator Davis** moved to send **RS 24249** to print. **Senator Lakey** seconded the motion.

**Senator Davis** noted that this is a Senate Joint Resolution that will be referred to a committee. In all respects, it is treated like a bill so it won't go to the 10th Order of Business.

The motion carried by **voice vote**.

**SCR 133**

STATING FINDINGS OF THE LEGISLATURE to honor Black History Month in Idaho

**Senator Cherie Buckner-Webb** stated that **SCR 133** is asking for commemoration and acknowledgement of Black History Month. She provided the Committee with a commentary on the history of how the celebration of Black History Month grew from its precursor of Negro History Week, established in 1926 by historian Carter G. Woodson and the Association for the Study of Negro Life and History (see attachment 1). **Senator Buckner-Webb** concluded her comments by asking the Committee to support the contributions of Idaho's black citizens by recognizing February as Black History Month in Idaho.

**Senator Davis** thanked Senator Buckner-Webb for bringing this concurrent resolution. He noted that language in the resolution acknowledged the adoption of the Idaho Human Rights Act in 1969, but that it didn't appear on "A Timeline of Black History in Idaho" (see attachment 2). **Senator Buckner-Webb** said the timeline comes from the Black History Museum and stated that it should be added.

**MOTION:**

**Senator Stennett** moved to send **SCR 133** to the Senate floor with a **do pass** recommendation. **Senator Davis** seconded the motion.

**Chairman McKenzie** acknowledged that Senator Buckner-Webb is Idaho's first elected African American State Legislator.

The motion carried by **voice vote**.

**ADJOURNED:**

**Chairman McKenzie** announced that the Committee would not be meeting on Wednesday or Friday. There being no further business, the meeting was adjourned at 8:28 a.m.

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Senator McKenzie  
Chair

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Twyla Melton  
Secretary

**SCR133**

The precursor to Black History Month was established in 1926 in the United States, when historian Carter G. Woodson and the Association for the Study of Negro Life and History announced the second week of February to be "Negro History Week." That week was chosen because it coincided with the birthday of Abraham Lincoln on February 12th and of Frederick Douglass on February 14th, dates Black communities had celebrated together since the late 19th century,

From the event's initial phase, primary emphasis was placed on encouraging the coordinated teaching of the history of American blacks in the nation's public schools. At the time of Negro History Week's launch, Woodson contended that the teaching of black history was essential to ensure the physical and intellectual survival of the race within broader society:

"If a race has no history, it has no worthwhile tradition, it becomes a negligible factor in the thought of the world, and it stands in danger of being exterminated."

By 1929 *The Journal of Negro History* was able to note that with only two exceptions, officials with the State Departments of Educations of "every state with considerable Negro population" had made the event known to that state's teachers and distributed official literature associated with the event."

After a lukewarm start, Negro History Week ultimately prompted the creation of black history clubs, an increase in interest among teachers, and a segment of mainstream dominant culture. Negro History Week grew in popularity throughout the following decades, with mayors across the United States endorsing it as a holiday.

The expansion of Black History Week to Black History Month was first proposed by the leaders of the Black United Students at Kent State University in February 1969. The first celebration of the Black History Month took place at Kent State one year later, in February 1970.

In 1976 as part of the United States Bicentennial, the informal expansion of Negro History Week to Black History Month was officially recognized by the U.S. government. President Gerald Ford spoke in regards to this, urging Americans to "seize the opportunity to honor the too-often neglected

accomplishments of black Americans in every area of endeavor throughout our history.”

And so it is fitting and proper that we, too, in Idaho should commemorate and recognize the accomplishments of African American in this, Black History Month. Though blacks in Idaho number less than 1% of the population, we have proudly proclaimed Idaho our home and continue to work diligently in service to its growth and development. Some of us for many generations.

Since the arrival of York, manservant of Captain William Clark in 1805 to present day, Blacks continue to cherish Idaho as our home:

- From Ned and Suzanne Legroan of Milo who came to Idaho with the Mormon Migration
- To miner George Washington Blackman of Hailey in 1879
- From former slave Elvina Moulton who crossed the plains in 1867 and “got tired” and stopped in Boise and on February 24, 1878, became the only Black charter member of the Boise Presbyterian Church
- From Jennie Hughes who was the first Black known to graduate from the University of Idaho in 1908 with a degree in Botany
- To Reginal Reeves, graduate of the University of Idaho Law school in 1952
- From Dr. Alexander J. Foster, a podiatrist who practiced in Nampa, Twin Falls, and Idaho Falls
- To Tracy Thompson, Bronco Rider from Pocatello, father of Human Rights Activists Idaho Purce and grandfather of Thomas Les Purce, the first Black elected official in Idaho History who served as first a city councilman and then mayor of Pocatello and later served as Director of Idaho's departments of Administration and Health and Welfare under Governor John Evans.
- From the establishment of the Idaho Black History Museum in 1999– the first in the northwest - to the present, Feb 1, 2016, blacks have

been part of the landscape, culture, vitality and economic development of Idaho.

Idaho's black citizens have persevered to contribute to that rich mosaic that is uniquely Idaho. You will find proud Black Idahoans across the state, working, sharing, educating, worshipping, building. Good Senators, I ask your support to commemorate and recognize the contributions of Idaho's Black Citizens by recognizing February 2016 as Black History Month in Idaho.



## A Timeline of Black History in Idaho

- |  |   |
|--|---|
| <p>1805 York travels with Meriwether Lewis and William Clark through Idaho. York was Clark's man servant.</p> <p>1860 Blacks are among the many miners, explorers, trappers, soldiers and cowboys plying their trade in Idaho. Rhodes Creek in Clearwater County is named after miner, William Rhodes, whose fortune equaled \$80,000.</p> <p>1861 Jane R Allen born in Ada County</p> <p>1864 John West moves to Boise from Philadelphia; named "Dean of Colored Pioneers in Idaho"</p> <p>1865 Bella Carvan born in Boise County</p> <p>1869 John F. Allen leaves Boise because he cannot get his children into public schools.</p> <p>1870 The census indicates 60 Blacks living in Pocatello, Alturas, Lemhi, Nez Perce, Silver City, Idaho County, Shoshone County, Boise County and Boise City. The Desert Land Act encourages many Black Mormons to move to Idaho.</p> <p>1879 George Washington Blackman, a miner, arrives in Hailey. Blackman Peak, in the White Cloud Mountains, is named after him.</p> <p>1890 Idaho becomes a state</p> <p>1892 The 25<sup>th</sup> Infantry Regiment, a Black unit, is brought from Missoula, Montana to put down labor unrest in the Coeur d'Alene mining district.</p> <p>1899 Jennie Hughes becomes the first Black to graduate from the University of Idaho.</p> <p>1899 Ned Leggroan moves to Bonneville County</p> <p>1900 The 1900 Census lists 47 "colored" people living in Ada County</p> <p>1903 The African American League and the Women's Athenian Club, both of whom work for equal rights, are founded in Boise.</p> <p>1906-1907 Doc Hisom and William White stake mining claim in "The Cove."</p> <p>1908 St. Paul Baptist Church is founded in Boise by Rev. William Riley Hardy</p> <p>1910 The 1910 Census lists 135 Blacks living in Ada County</p> <p>1920 In Pocatello, 2.4 percent of the population is Black - 366 people, compared to 63 in Boise. The Ku Klux Klan becomes active in Boise and Pocatello.</p> <p>1921 St. Paul Baptist Church is built</p> | <p>1942 Mountain Home Air Force Base opens, bringing more Blacks to Idaho</p> <p>1952 Reginald Reeves is the first Black to graduate from the University of Idaho Law School. He joins an Idaho Falls law firm.</p> <p>1964 Dorothy Johnson, a Pocatello resident, wins Miss Idaho USA title</p> <p>1966 Frank Cummings, Jr. a champion model airplane enthusiast, moves to Kamiah with his wife Marion.</p> <p>1968 Idaho's first civil rights rally is held at the Idaho State Capitol following the assassination of Dr. Martin Luther King, Jr. in Memphis, Tennessee</p> <p>1972 Mamie Oliver is the first Black professor at Boise State University</p> <p>1973 Les Purce wins a seat on the Pocatello City Council. He is the first Black elected official in the state.</p> <p>1974 Boise Mayor Dick Eardley declares Boise's first Negro History Week.</p> <p>1974 Aryan Nation compound opens in Hayden Lake.</p> <p>1977 Idaho Purce, daughter of Birdie and Tracy Thompson, and mother of Pocatello Mayor, Les Purce, is named "Humanitarian of the Year" by the Salvation Army.</p> <p>1981 Les Purce is named director of the Idaho Department of Health and Welfare</p> <p>1982 St. Paul Baptist Church is placed on the National Register of Historic Places</p> <p>1983 The Idaho State Legislature prohibits malicious harassment based on racial and ethnic identity.</p> <p>1986 Cherie Buckner is first Black woman to be a member of the Boise Junior League</p> <p>1990 Idaho becomes the 47<sup>th</sup> state to honor Dr. Martin Luther King, Jr. holiday.</p> <p>1993 Jerome Mapp is first Black elected to Boise City Council</p> <p>1995 St. Paul Baptist Church vacates its original building for a larger facility and donates the original building to the Idaho Black History Museum, Inc.</p> <p>1998 The former St. Paul Baptist Church is relocated to Julia Davis Park</p> <p>1999 The Idaho Black History Museum opens</p> <p>2003 Joe B. McNeal is elected Mayor of Mountain Home</p> <p>2009 Dayo O. Onanubosi becomes first Black Magistrate Judge, Third Judicial District, Canyon County</p> <p>2010 Cherie Buckner-Webb is first Black elected to Idaho Legislature</p> |
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**AMENDED AGENDA #1**  
**SENATE STATE AFFAIRS COMMITTEE**  
**8:00 A.M.**  
**Room WW55**  
**Monday, February 08, 2016**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
VOTE ON GUBERNATORIAL APPOINTMENTS:	The Gubernatorial Re-appointment of Neil Anderson to the Idaho Endowment Fund Investment Board (EFIB).	
	The Gubernatorial Re-appointment of M. Dean Buffington to the Idaho Endowment Fund Investment Board (EFIB).	
	The Gubernatorial Re-appointment of Charles L. Winder to the Idaho Endowment Fund Investment Board (EFIB).	
GUBERNATORIAL APPOINTMENTS:	The Gubernatorial Re-appointment of Rayelle Anderson to the Bingo-Raffle Advisory Board. (Phone Interview)	
	The Gubernatorial Re-appointment of Kevin Coyne Settles to the Idaho Commission on Human Rights.	
	The Gubernatorial Re-appointment of Joe B. McNeal to the Idaho Commission on Human Rights.	
<a href="#"><u>RS24034</u></a>	RELATING TO THE SCHOOL DISTRICT BOND CREDIT ENHANCEMENT PROGRAM to raise the aggregate guarantee limit of the credit enhancement program for school district bonds.	Larry Johnson, Endowment Fund Investment Board
<a href="#"><u>RS24362</u></a>	RELATING TO SCHOOL DISTRICT TRUSTEES to provide requirements regarding vacancies in case of recall.	Senator Winder
<a href="#"><u>RS24393</u></a>	RELATING TO ABSENTEE VOTING to revise a certain application deadline.	Senator Winder
<a href="#"><u>RS24394</u></a>	RELATING TO ABSENTEE VOTING regarding early voting and declaring an emergency.	Senator Winder

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman McKenzie

Sen Siddoway

COMMITTEE SECRETARY

Twyla Melton

Vice Chairman Lodge

Sen Davis

Sen Hill

Sen Winder

Sen Lakey

Sen Stennett

Sen Buckner-Webb

Room: WW42

Phone: 332-1326

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MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Monday, February 08, 2016

**TIME:** 8:00 A.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Lodge, Senators Davis, Hill, Winder, Siddoway, Lakey, Stennett and Buckner-Webb

**ABSENT/ EXCUSED:** None

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**CONVENED:** **Chairman McKenzie** called the Senate State Affairs Committee (Committee) to order at 8:01 a.m. with a quorum present.

**VOTE ON GUBERNATORIAL APPOINTMENTS:** The reappointment of Neil Anderson to the Idaho Endowment Fund Investment Board.

The reappointment of M. Dean Buffington to the Idaho Endowment Fund Investment Board.

The reappointment of Charles L. Winder to the Idaho Endowment Fund Investment Board.

**MOTION:** **Senator Davis** moved to send the Gubernatorial reappointments of Neil Anderson, M. Dean Buffington and Charles L. Winder to the Idaho Endowment Fund Investment Board be sent to the Senate floor with the recommendation that they be confirmed. **Senator Stennett** seconded the motion. The motion carried by **voice vote**. For the record, **Senator Winder** abstained from voting due to an obvious conflict of interest.

**GUBERNATORIAL APPOINTMENTS:** The Gubernatorial reappointment of Rayelle Anderson to the Bingo-Raffle Advisory Board (Board).

**Chairman McKenzie** stated that the interview would be by phone since Ms. Anderson is located in Northern Idaho. He asked Ms. Anderson to talk about items of note since her last reappointment, fundraising efforts and the effectiveness of the structure of the program at North Idaho College.

**Ms. Anderson** stated that she was currently serving as Chairman of the Board. During her tenure, it was decided to develop better access to best practices for raffle and bingo operations sponsored by nonprofits. They are working with the staff at the Idaho Lottery to add this section of best practices to the website.

**Ms. Anderson** said she has worked with North Idaho College (College) since they started a raffle in 1992-1993. It is the largest fundraising opportunity that they, as a 501(c)(3) charitable nonprofit, have in the State. North Idaho College Foundation (Foundation) partners with the College to support the learning laboratory for the carpentry program. Students in the laboratory build the house and raffle it off to provide funding for the learning laboratory. Without that revenue source and laboratory environment, the College probably would have lost the carpentry

career and technical program. The community always collaborates with the College, the Foundation and the carpentry program to support that project. They are now in their twenty-third year, and every year all tickets have been sold.

**Chairman McKenzie** asked if there have been questions or feedback from nonprofits that are operating bingo-raffles and are trying to incorporate the best practices into their operations. Are there any particular areas that need to be addressed? **Ms. Anderson** said she gets at least one call each week from the nonprofit sector regarding raffles, and those continue to increase. She is surprised how few people understand that they need to be licensed or that Idaho Code governs bingo and raffles.

**Senator Siddoway** asked if Ms. Anderson is involved in enforcement. If an entity is out of compliance, is there some type of retribution or would it only be an education process to get them into compliance? **Ms. Anderson** responded that enforcement comes through the Idaho Lottery Commission.

#### **GUBERNATORIAL APPOINTMENT:**

The Gubernatorial reappointment of Joe B. McNeal to the Idaho Commission on Human Rights.

**Chairman McKenzie** asked him to tell what has happened since his last appointment and state any concerns he may have.

**Joe B. McNeal** introduced himself and explained that the Idaho Human Rights Commission (Commission) was created in Title 67, Chapter 59, by the Idaho Legislature in 1969. **Mr. McNeal** said that the nine commissioners from all over the State take their responsibilities and authority very seriously. The Commission was merged with the Idaho Department of Labor in 2010. The Department of Labor provides only administrative and logistic support; Commission retains its independence. Even though the Idaho Human Rights Act has been amended, the purpose of the act is unchanged; it is to protect the rights of individuals within the State.

**Senator Buckner-Webb** asked what is the greatest challenge the Commission has in carrying out their duties. **Mr. McNeal** stated that it is the budget. Hiring investigators and other staff is a big concern.

**Senator Hill** asked for the number of staff members employed and what their roles are. **Mr. McNeal** stated that there is an administrator, eight investigators, two intake personnel and three or four clerks. Other support comes from the Idaho Department of Labor. **Senator Hill** asked what are the most common complaints and how many complaints were investigated. **Mr. McNeal** said that according to the latest annual report for 2015, there were a total of 494 administrative cases processed; there were some miscellaneous settlements and successful collaborations; they also did mediations in some cases. The most common complaints are accommodation, race and sexual harassment.

**Senator Buckner-Webb** stated that there are some concerns about the lack of ability to file a complaint on the basis of gender identity and sexual orientation. Do people come to your office to have that conversation and where do you direct them? **Mr. McNeal** responded that if it is a complaint that they are not responsible for, they send that person to the appropriate organization for assistance. The 2015 report shows that they processed four sexual orientation and two gender identification cases. **Senator Buckner-Webb** asked if they are sent elsewhere in the community since those people do not fall under the Human Rights Act. **Mr. McNeal** said it depends on what basis the complaint is being filed, such as housing, race or sexual. Any case that falls under their jurisdiction will be handled just like any other case.

**Senator Davis** stated his appreciation that Mr. McNeal continues to serve. **Senator Davis** restated a question he had asked Mr. McNeal in a previous confirmation hearing: what tools could the Legislature provide to help in the enforcement of the Human Rights Act. At that time the answer was "subpoena power." **Senator Davis** said Mr. McNeal's response then was that it wasn't a current problem, but that it might be an important investigative and enforcement tool going forward. That tool is still not in place. He asked Mr. McNeal to characterize his experience in the last two years on that issue. He asked if Mr. McNeal still believes that some form of subpoena power should be granted. **Mr. McNeal** said that as far as experience goes, the investigators reported when they are interviewing people regarding discrimination, sometimes they don't always get the truth. Without power to insist that they tell the truth, there are no consequences unless they go to court. Subpoena power would make investigations more thorough and more authentic.

**Senator Winder** thanked Mr. McNeal for his service to his country, for his service to the community as mayor and for his service to Idaho on the Human Rights Commission. **Senator Winder** asked Mr. McNeal to tell them the one thing that would improve the Commission. **Mr. McNeal** answered that if he had the power, he would eliminate all discrimination.

**Chairman McKenzie** echoed the appreciation expressed for Mr. McNeal's service. The Chairman announced that Mr. Settles had not arrived yet so the next item will be **RS 24034**.

#### **RS 24034**

RELATING TO THE SCHOOL DISTRICT BOND CREDIT ENHANCEMENT PROGRAM to raise the aggregate guarantee limit of the credit enhancement program for school district bonds.

**Larry Johnson**, Manager of Investments for the Endowment Fund Investment Board (EFIB), explained that the purpose of this legislation is to increase the capacity of a guarantee program that reduces the interest rate on general obligation school bonds. The program increases the bond principle that can be guaranteed from \$800 million to \$1.2 billion. It also raises the maximum available to any one district from \$20 million to \$40 million.

Idaho has two programs that boost school bond credit ratings; the first enhancement is provided by the State through a program administered by the Treasurer. The State's program boosts bond ratings to the equivalent of the State's rating which is AA+ on the Standard and Poor's scale. The second enhancement is overseen by the EFIB and has a AAA rating, the highest possible credit rating for voter approved school bonds.

Originally, there were some capacity limits, but due to the growth in the fund over the last 15 years, the EFIB believes the limits can prudently be increased. They have had to turn away requests to guarantee large bond issues. This change will double the program's per district capacity without putting the fund at undo risk.

This proposed legislation has been shared with the education community and school bond financial experts. The EFIB believes it has been thoroughly vetted by stakeholders. It will save the district's money and increase the endowment fund's fee income.

**Senator Lakey** asked if a school district decides to pass a bond, are they automatically guaranteed for the amount they are asking for or is the decision based on that particular district's ability to be guaranteed? **Mr. Johnson** said that there are metrics that they look at with regard to each district, but there are limitations enshrined in State statute that say a district can only borrow up to

five percent of its taxable value, they are subject to the oversight of the Department of Education to guarantee that every district in Idaho is a good credit risk and they are essentially automatically approved.

**MOTION:**

**Senator Lodge** moved to send **RS 24034** to print. **Senator Siddoway** seconded the motion.

**Senator Davis** said he understands the idea of ultimate savings. However, there is no reference to the risk or exposure that exists in the fiscal note. **Mr. Johnson** answered that because of the limitations and the oversight that is in State statute and Idaho's method of administering schools, the EFIB believes that the risk of any permanent loss from the school bond is essentially zero. There has never been a default on a general obligations school bond anywhere in the nation. If there was some great catastrophe and the district missed a payment and the EFIB made it on their behalf, that would be repaid over time because of the district's taxing ability.

The motion carried by **voice vote**. Senator Winder abstained from voting due to a possible conflict of interest.

**RS 24362**

RELATING TO SCHOOL DISTRICT TRUSTEES to provide requirements regarding vacancies in case of recall.

**Senator Winder** explained that this legislation involves a recall election of a school board when more than a majority of the board members are subject to the recall. It provides that when the petitions for recall become certified, those subject to the recall cannot replace a member until such time as the recall election's results have been certified and a majority of the board was not recalled.

**Senator Stennett** asked what "when impacting more than a majority" means. **Senator Winder** answered that "quorum" might be a better word than "majority." In the circumstance where there is a recall drive to potentially recall four members of a five-member board, there couldn't be a resignation process and replacements appointed by the board subject to recall.

**Senator Buckner-Webb** asked how "someone with like mind" would be determined. **Senator Winder** said that the real issue is not the person who gets appointed, it is when the recall process is underway; those who are being recalled cannot participate in the replacement of the member(s) who resign.

**Senator Siddoway** provided a hypothetical example of what could happen if only the remaining board members were the ones who voted in new members, which would eliminate the problem of voting those "of a like mind" to the board. **Senator Winder** said that the big difference occurs when the majority of the board is subject to recall. If those who are subject to recall can be involved in the replacement of someone who is resigning, there is the potential to reappoint people of their choosing with "like mind." **Senator Siddoway** asked for details about the actual instance that is occurring in West Ada School District. **Senator Winder** responded that they are not changing the staggered nature of the positions. He was not prepared to say what the terms are of the individuals.

**Senator Buckner-Webb** asked who was bringing this legislation. **Senator Winder** stated that he is bringing the legislation forward.

**Senator Davis** reviewed the process in subpart (4) of **RS 24362** step by step. He compared subpart (4) to subpart (5) and pointed out that the difference between the two rested with the five-day period. What is the difference between "within five days" and "following five days?" **Senator Winder** said that language was part of existing code. **Senator Davis** continued his review. If there is a quorum remaining on the board, then subpart (3) applies to fill a vacancy. If

any of the remaining trustees that did not resign are also subject to that recall election, could there be independent, but somewhat parallel recall efforts?

**Senator Winder** responded that this legislation deals with a situation where a majority of the board would be subject to a particular recall election; only in that circumstance would they then be prevented from voting on a replacement(s) on that board.

**Senator Davis** asked for an explanation of the process when there is not a quorum on the board and the Governor must fill a vacancy. **Senator Winder** said that names would be submitted as they are when there are vacancies on other boards or commissions when there isn't a quorum and, after review, the Governor would make his selection.

**Senator Davis** asked what the difference was between subpart (4) and subpart (5). **Senator Winder** explained that the legislation provides that if there is a resignation during the time period when a quorum of the board is being recalled, the opening will remain vacant. The only time the Governor could appoint someone to fill that vacancy is after the recall is certified and there was not a quorum remaining on that board.

**MOTION:**

**Senator Davis** moved to send **RS 24362** to print. **Senator Siddoway** seconded the motion.

**Senator Hill** said he would support the motion, but he is reluctant to address this issue and appear to give one side or the other some advantage through legislative action.

**Senator Buckner-Webb** stated she would vote to print but she is very concerned about this legislation.

The motion carried by **voice vote**.

**RS 24393**

RELATING TO ABSENTEE VOTING to revise a certain application deadline.

**Senator Winder** explained that **RS 24393** deals with absentee voting. Because of the changes in postal service in certain areas of the State, it takes longer to get absentee ballots out and back. This legislation is extending the period from six days to eleven days to allow for adequate mailing time.

**Senator Hill** asked who was requesting this change. **Senator Winder** said Phil McGrane, Ada County Chief Deputy Clerk, brought this to his attention.

**MOTION:**

**Senator Siddoway** moved to send **RS 24393** to print. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

**RS 24394**

RELATING TO ABSENTEE VOTING regarding early voting and declaring an emergency.

**Senator Winder** said **RS 24394** was brought to him by Mr. McGrane. They are updating technology to have the ability to tabulate ballots at the polls. At that time the information is digitized and the vote is recorded.

**Senator Davis** stated that it was important to protect the privacy of the ballot box. Not every county is like Ada County. Not every precinct is a large precinct. It is easy to see a scenario where people could easily deduce how ballots are cast.

At what point in time will the tabulation results be made available when using the location-based tabulation system? How does that compare to Idaho's current early-voting tabulation system? **Senator Winder** explained that according to Mr. McGrane, that will be a part of the whole consideration about how this



information is managed along with protecting the rights and privacy of the people.

**MOTION:**

**Senator Lakey** moved to send **RS 24394** to print. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

**Chairman McKenzie** noted that Mr. Settles had arrived and asked him to address activities since his last appointment and to identify any particular areas the Committee should look at.

**GUBERNATORIAL APPOINTMENT:**

The Gubernatorial reappointment Kevin Coyne Settles to the Idaho Commission on Human Rights (Commission).

**Kevin Settles**, owner of the Bardenay Restaurants and Distilleries, stated that he is being considered for reappointment to the Commission.

**Mr. Settles** apologized for his lack of timing and asked the Committee not to take it as a lack of interest in the Commission or any lack of respect for the Committee.

**Mr. Settles** has been on the Commission for 3.5 years. When he was asked to serve he didn't realize at the time that it was going to make him a better employer. What Idaho does is very creative and it is Mr. Settles' understanding that Idaho is the first state to approach how issues between employers and employees are dealt with as they relate to discrimination in age, sex and disabilities. The business community has to comply with an ever-changing set of rules and regulations. He feels honored to represent the business and employer community on the Commission. They take their work very seriously.

**Mr. Settles** stated that he is amazed at the number of times he refers back to the good work the Commission does to help make sure people are treated fairly in a controlled environment. He was pleased to be asked to be reappointed. Every employer should get the opportunity to serve on this Commission.

**Senator Stennett** asked about the composition of the Commission that includes several members at large. How do you work with such a diverse group of people and how well do they all work together? **Mr. Settles** said that the Commission works amazingly well together. There is a strong desire to make sure the right decision is made. They cover the broad spectrum; there is union representation, minority representatives and others. They are all open to discussing all issues. The staff also does a very good job during the intake process.

**Chairman McKenzie** thanked Mr. Settles for his service, noting that they have worked together on some beverage control laws.

**ADJOURNED:**

There being no further business, **Chairman McKenzie** adjourned the meeting at 9:05 a.m.

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Senator McKenzie  
Chair

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Twyla Melton  
Secretary

**AMENDED AGENDA #1**  
**SENATE STATE AFFAIRS COMMITTEE**  
**8:00 A.M.**  
**Room WW55**  
**Wednesday, February 10, 2016**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
VOTE ON GUBERNATORIAL APPOINTMENTS:	The Gubernatorial reappointment of Rayelle Anderson to the Bingo-Raffle Advisory Board.  The Gubernatorial reappointment of Joe B. McNeal to the Idaho Commission on Human Rights.  The Gubernatorial reappointment of Kevin Coyne Settles to the Idaho Commission on Human Rights.	
<a href="#"><u>RS24297</u></a>	RELATING TO ELECTIONS to provide for electronic registration.	Lawrence Denney, Secretary of State
<a href="#"><u>RS24408</u></a>	RELATING TO THE RACING COMMISSION to direct the Commission to make certain payment to the Idaho Horse Council under specified conditions.	Senator Rice
<a href="#"><u>RS24446</u></a>	RELATING TO ELECTION CAMPAIGN CONTRIBUTIONS AND EXPENDITURES to require reporting in all state/local elections and ballot measures.	Senator Souza
<a href="#"><u>H 362</u></a>	RELATING TO RETAIL SALE OF LIQUOR BY THE DRINK to revise the definition of "person" to reflect a current definition of the word "person" contained in the Uniform Commercial Code.	Russell Westerberg, Idaho Licensed Beverage Association
MINUTES APPROVAL:	Minutes of January 22, 2016	Senators Winder and Stennett
	Minutes of January 27, 2016	Senators Hill and Davis

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman McKenzie	Sen Siddoway
Vice Chairman Lodge	Sen Lakey
Sen Davis	Sen Stennett
Sen Hill	Sen Buckner-Webb
Sen Winder	

COMMITTEE SECRETARY

Twyla Melton  
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MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Wednesday, February 10, 2016

**TIME:** 8:00 A.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Lodge, Senators Davis, Hill, Winder, Siddoway, Lakey, Stennett and Buckner-Webb

**ABSENT/ EXCUSED:** None

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**CONVENED:** **Chairman McKenzie** called the Senate State Affairs Committee (Committee) to order at 8:05 a.m. with a quorum present.

**VOTE ON GUBERNATORIAL APPOINTMENTS:** The reappointment of Rayelle Anderson to the Idaho Bingo-Raffle Advisory Board .  
The reappointment of Joe B. McNeal to the Idaho Commission on Human Rights.

The reappointment of Kevin Coyne Settles to the Idaho Commission on Human Rights.

**MOTION:** **Senator Siddoway** moved to send the Gubernatorial reappointments of Rayelle Anderson to the Idaho Bingo-Raffle Advisory Board, Joe B. McNeal to the Idaho Commission on Human Rights and Kevin Coyne Settles to the Idaho Commission on Human Rights to the Senate floor with the recommendation that they be confirmed. **Senator Buckner-Webb** seconded the motion. The motion carried by **voice vote**.

**RS 24297** RELATING TO ELECTIONS to provide for electronic registration.

**Chairman McKenzie** introduced Secretary of State Lawrence Denney, who explained **RS 24297** as legislation authorizing the Secretary of State's office to build and implement an online voter registration system. He explained that online registration would require a valid driver's license or state identification card that conforms to Idaho Code § 34-411; it would also require the registrant to affirm the accuracy of the information under oath. **Secretary Denney** further explained that a digital copy of the signature found on the ID card or driver's license would be verified by the county clerk. He recounted the history of online registration across the country in different states and listed the benefits: greater accuracy, lower cost and less time-consuming.

**Chairman McKenzie** voiced support of **RS 24297** and characterized online registration as more secure and less time-consuming.

**MOTION:** **Senator Davis** moved to send **RS 24297** to print. **Senator Lodge** seconded the motion.

**Senator Buckner-Webb** questioned whether an online system would preclude registering at the polls. **Secretary Denney** replied there would still be registration at the polls but hoped that the number would be less due to online registration. He explained that the online registration cutoff date prior to elections could be much closer than the registration at the polls.

**Senator Stennett** questioned Secretary Denney about the privacy of the online service. **Secretary Denney** affirmed that security would be maintained and security concerns were the reason that online registration would not be instantaneous.

The motion carried by **voice vote**.

**RS 24408**

RELATING TO THE RACING COMMISSION to direct the Commission to make certain payments to the Idaho Horse Council under specified conditions.

**Senator Rice**, District 10, explained that **RS 24408** clarifies the process for the payment of funds from the Racing Commission to the Idaho Horse Council. He said **RS 24408** specifies that funds be used only for youth equine education and promotion of equine-related youth development programs and that the funds would be held in a separate account subject to audit.

**MOTION:**

**Senator Siddoway** moved to send **RS 24408** to print. **Senator Buckner-Webb** seconded the motion. The motion carried by **voice vote**.

**RS 24446**

RELATING TO ELECTION CAMPAIGN CONTRIBUTIONS AND EXPENDITURES to require reporting in all state/local elections and ballot measures.

**Senator Souza**, District 4, explained that **RS 24446** relates to election campaign disclosure. She detailed the requirements for state candidates and ballot measures to disclose campaign finances that are not required at the local level. **Senator Souza** explained that **RS 24446** would standardize all elections, whether state or local. She explained that the electorate would have full disclosure as to special interest groups' intentions during all elections and ballot measures. **Senator Buckner-Webb** questioned whether local entities could handle the additional responsibility associated with campaign-finance reporting. **Senator Souza** explained that procedures are already in place on the state level; those could be easily used by the local entities with the addition of a second disclosure page. **Senator Buckner-Webb** asked for clarification of the fiscal note. **Senator Souza** explained that during the election season, additional staffing may be required; that would vary by county. **Senator Lakey** told about a local library district that saw the need for this legislation in a previous library bond election.

**MOTION**

**Senator Lakey** moved to send **RS 24446** to print. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

**H 362**

RELATING TO RETAIL SALE OF LIQUOR BY THE DRINK to revise the definition of "person" to reflect a current definition of the word "person" contained in the Uniform Commercial Code.

**Russell Westerberg**, representing the Idaho Licensed Beverage Association, explained that **H 362** would change the definition of "person" in Idaho Title 23-902. He explained that the current definition of "person" in context of someone holding a liquor license was adapted before the advent of legal entities that exist today, such as Trusts, Limited Liability Corporations (LLC), Estates. The new definition of "person" includes those aforementioned entities and is not intended to increase the number of people who may hold a liquor license. **Mr. Westerberg** explained that legal cases have been dismissed due to the ambiguity of the definition of "person" relating to liquor licenses. **Senator Hill** referenced line 26 on page 2 and questioned the codifying of the words "or commercial," indicating that possibly an illegal commercial entity would be covered. **Mr. Westerberg** referred to the deputy attorney general for explanation. **Senator Davis** wondered why the rewrite of the Uniform Business Organization Code (UBOC) definition of "person" wasn't used in this legislation. **Mr. Westerberg** deferred answering Senator Davis' question to others scheduled to testify.

**Russ Wheatley**, Bureau Chief, Alcohol Beverage Control, spoke in favor of **H 362**. He explained that in Idaho Code 23, Chapter 9, there are references to "persons" that are not liquor license holders and pointed out several examples. He clarified that Idaho Code § 23-934 defines an unlicensed room as unlawful. That section is used to enforce liquor on a premise that is not licensed. If Idaho Code § 23-934 is read in concert with the current definition of "persons," there is confusion. The UCC definition has been used in other sections of Idaho Code to deal with business entities.

**Senator McKenzie** offered to have Deputy Attorney Ken Robins answer questions previously posed by Senator Davis and Senator Hill. **Ken Robins**, Deputy Attorney General, indicated that his duties include advising the Bureau of Alcohol Beverage Control (Bureau). He voiced his support of **H 362** and enumerated the difficulties local prosecutors have in the enforcement of the unlicensed room statute in § 23-934. He said that Idaho Code has not kept up with the business entities that can own a liquor license and indicated that the wording used in **H 362** was not exactly that of the UCC, but provides a list of business entities capable of holding a liquor license. There are business organizations that had a filing with the Secretary of State but their corporate documents have lapsed. There is a need to encompass those entities as viable business entities under the law.

**Senator Hill** asked about the difference between a legal entity and a commercial entity. **Deputy Attorney Robins** said that it may be intended to encompass something that has not been expressly provided for in current law. He explained circumstances where an entity's license could have lapsed for a variety of reasons that were beyond the agency's control, resulting in a possible loss of its liquor license. **Deputy Attorney Robins** further explained that the Bureau attempts to help the entities rectify the lapse and regain eligibility to maintain the liquor license. Discussion ensued between **Senator Davis** and **Deputy Attorney General Robbins** concerning the definition of "person" and which entities ought to be included in that definition.

**Senator Siddoway** stated his concern with entities in violation of liquor laws. **Deputy Attorney Robins** clarified procedures used when liquor licenses are renewed.

**MOTION:** **Senator Davis** moved to send **H 362** to the 14th Order of Business for possible amendment. **Senator Winder** seconded the motion. The motion carried by **voice vote**

**MINUTES APPROVAL:** **Senator Stennett** moved to approve the Minutes of January 22, 2016. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

**MINUTES APPROVAL:** **Senator Hill** moved to approve the Minutes of January 27, 2016. **Senator Davis** seconded the motion. The motion carried by **voice vote**.

**ADJOURNED:** There being no further business, **Chairman McKenzie** adjourned the meeting at 8:55 a.m.

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Senator McKenzie  
Chair

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Twyla Melton, Secretary

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Assisted by Marian Smith

AGENDA  
**SENATE STATE AFFAIRS COMMITTEE**  
8:00 A.M.  
Room WW55  
Friday, February 12, 2016

SUBJECT	DESCRIPTION	PRESENTER
<a href="#">RS24470</a>	RELATING TO THE IDAHO STATE INDEPENDENT LIVING COUNCIL to reference to a federal law instead of the Code of Federal Regulations	Senator Hagedorn
<a href="#">RS24316</a>	RELATING TO WINERIES to allow persons under the age of twenty-one to enter or be on the premises of a winery.	Roger Batt, Idaho Grape Growers and Wine Producers
<a href="#">RS24463</a>	RELATING TO REGULATORY TAKINGS to provide that an owner of private property may submit a written request for an analysis of the taking.	Senator Lakey
<a href="#">SJR 101</a>	PROPOSING AN AMENDMENT TO SECTION 10, ARTICLE IV OF THE CONSTITUTION OF THE STATE OF IDAHO relating to vetoes by the Governor following the adjournment of the Legislature	Senator Vick
PRESENTATION:	Environmental Protection Agency Clean Power Plan - Guidelines/Rules	John Chatburn, Idaho Office of Energy Resources
MINUTES APPROVAL:	February 1, 2015	Senators Lodge and Buckner-Webb

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman McKenzie  
Vice Chairman Lodge  
Sen Davis  
Sen Hill  
Sen Winder

Sen Siddoway  
Sen Lakey  
Sen Stennett  
Sen Buckner-Webb

COMMITTEE SECRETARY

Twyla Melton  
Room: WW42  
Phone: 332-1326  
email: [sstaf@senate.idaho.gov](mailto:sstaf@senate.idaho.gov)

MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Friday, February 12, 2016

**TIME:** 8:00 A.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman McKenzie, Senators Davis, Hill, Winder, Siddoway, Lakey, Stennett and Buckner-Webb

**ABSENT/ EXCUSED:** Vice Chairman Lodge

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**CONVENED:** **Chairman McKenzie** called the Senate State Affairs Committee (Committee) to order at 8:01 a.m. with a quorum present.

**RS 24470** RELATING TO THE IDAHO STATE INDEPENDENT LIVING COUNCIL to revise a reference to a federal law instead of the Code of Federal Regulations.

**Senator Hagedorn**, District 14, stated that **RS 24470** streamlines and corrects some language that is in code relating to the Idaho State Independent Living Council (Council). Since the Rehabilitation Act of 1973 (Act), each reallocation of funds are reallocated under a different name and a new Code of Federal Regulations (CFR) is created. Instead of referencing those CFRs in Idaho Code, this legislation will reference the Act, and the CFRs can be referenced in rule as needed. **RS 24470** also cleans up language about which State agency or unit the Council can contract with to use as a pass-through for those funds.

**Senator Hill** asked Senator Hagedorn if someone brought this legislation to him or was it the result of his own research. **Senator Hagedorn** said that the Council brought this to him based on information from the Governor's office. This issue was overlooked in some of their previous legislation. This RS was reviewed by the Governor's office and approved.

**MOTION:** **Senator Buckner-Webb** moved to send **RS 24470** to print. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

**RS 24316** RELATING TO WINERIES to allow persons under the age of twenty-one to enter or be on the premises of a winery.

**Roger Batt**, representing the Idaho Grape Growers and Wine Producers Commission, asks that Title 23, Chapter 9, § 23-944 be placed into the Idaho County Option and Kitchen Table Wine Act, § 23-1334 of Idaho Code. Enforcement authorities are having difficulty finding the language in code. This is just a clarification and Alcohol and Beverage Control has approved it (see attachments 1a and 1b).

**Senator Hill** referred to the addition of subsection (c) where it says "It shall not be unlawful for, nor . . . be construed to restrict, any person under the age of twenty-one (21) years from entering or being upon the premises"; that means they cannot be restricted for any reason. **Mr. Batt** answered that if someone comes into a winery intoxicated, the winery will call the State Police and rectify the situation. **Senator Hill** reiterated, does this language prohibit them from calling the police if there is a statute that states they cannot be kept off the premises? **Mr. Batt** said he didn't think so.

**Chairman McKenzie** asked Mr. Batt to respond to the question about authority at restaurants, baseball parks or other entities. Their authority to restrict for other reasons applies, but clarification would be helpful for the Committee. **Mr. Batt** agreed to research the issue.

**MOTION:**

**Senator Winder** moved to send **RS 24316** to print. **Senator Buckner-Webb** seconded the motion. The motion carried by **voice vote**.

**RS 24463**

RELATING TO REGULATORY TAKINGS to provide that an owner of private property may submit a written request for an analysis of the taking.

**Senator Lakey**, District 12, stated that **RS 24463** brings clarification to Idaho Code § 67-8003. On page 1, the word "real" property is replaced with "private" property. Private property is defined in this chapter, but real property is not. In the case of takings, both real or private property could be involved. Private property covers both while real property may not.

The new subsection (5) addresses a regulatory taking analysis, which, in Senator Lakey's estimation, has been another potential shield for a private property owner. If they have a question, they have the option to request a regulatory taking analysis. If they decide not to pursue it, they can still pursue other legal remedies.

**Senator Davis** asked Senator Lakey if he was aware of any currently pending litigation that this RS would affect. **Senator Lakey** said he was not aware of any.

**MOTION:**

**Senator Winder** moved to send **RS 24463** to print. **Senator Hill** seconded the motion.

**Senator Siddoway** asked if personal property like boats, cars, fishing poles and the like could be affected by this bill. **Senator Lakey** answered that the regulatory takings analysis is mainly for land-use types of decisions. There are other provisions in the code that reference when a regulatory takings analysis is applicable; this code also references the Attorney General's Code Manual. **Senator Lakey** did not see these changes impacting personal property. He had not heard of this being used in confiscating property in case of criminal activity.

The motion carried by **voice vote**.

**SJR 101**

PROPOSING AN AMENDMENT TO SECTION 10, ARTICLE IV OF THE CONSTITUTION OF THE STATE OF IDAHO relating to vetoes by the Governor following the adjournment of the Legislature.

**Senator Vick**, District 2, explained that this is a one-sentence amendment to the Idaho Constitution that gives the Legislature the ability to override a Governor's veto after the session has ended. This amendment allows the Legislature to call a special session but only for the purpose of overriding a governor's veto. This keeps the Legislature in the process from beginning to end. The process does not end when they adjourn *sine die*; there are many bills that pass in the last few days of the session that a Governor has to review after the Legislature has gone home. Much of that legislation is some of the most important of the session. Most states recognize that this is an important function. Research by the National Conference of State Legislatures (NCSL) shows that Idaho is one of only six states that does not have this ability. This is a needed tool to have the appropriate balance of power. **Senator Vick** read the RS in its entirety.

**Senator Vick** described the steps he has taken in preparing this bill, where the language was drawn from and the possible language content that could be used in structuring the amendment. There was a question about whether or not this was a violation of the separation of powers. An opinion from the Attorney General says that because it is a constitutional provision, it does not violate the separation of



powers. It would violate the separation of powers if it was accomplished through statute (see attachment 2).

**Chairman McKenzie** questioned the timing. Is there a time limit for leadership to request the Governor to call the Legislature back in session? It appears the request could be made at any time without limit. **Senator Vick** said the way the constitutional amendment is worded, that is correct; so it is important to include "as provided by law." It is **Senator Vick's** belief that provisions in the Idaho Constitution should be brief and that the details should be handled by law.

**Senator Hill** stated for the record that he is President Pro Tempore and this references his office directly.

**MOTION:**

**Senator Lakey** moved to send **SJR 101** to the floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

**Chairman McKenzie** introduced John Chatburn, who will provide an update on the Clean Power Plan (CPP), which the Environmental Protection Agency (EPA) is imposing on several states.

**PRESENTATION:** The Environmental Protection Agency's Clean Power Plan – Guidelines/Rules.

**John Chatburn**, Administrator of the Governor's Idaho Office of Energy Resources, explained that the presentation is an overview of the EPA's CPP. The United States Supreme Court granted a stay on the implementation of the CPP pending review by the District of Columbia Circuit Court of Appeals and ultimately, most likely, the United States Supreme Court. **Mr. Chatburn** outlined what the expectations were to expedite the process. **Chairman McKenzie** asked if the State intends to file an amicus brief? **Mr. Chatburn** answered that Idaho chose not to participate as an intervenor in the law-suit that challenged the EPA on the CPP.

**Mr. Chatburn** said that the EPA proposes to regulate carbon emissions from existing Electric Generating Units (EGUs) and explained what the criteria are, which Idaho facilities will be impacted and the amount of power imported from EGUs in neighboring states. He proceeded to give a history of the CPP. If the CPP is upheld, it is likely that at least the initial deadline will be extended. The initial submittal will probably be extended to 2017 or beyond. If the CPP is upheld, states that are granted an extension of their initial submittal will have to meet that date. **Mr. Chatburn** continued his explanation about State statutory rule changes, choice of mass-based or rate-based compliance pathways and trade credits. **Chairman McKenzie** asked if the compliance pathways were based on historic emissions from imported energy. **Mr. Chatburn** responded that the rates or allowances for the State of Idaho were based on the State's two EGUs, along with some allowances by EPA for future growth. **Chairman McKenzie** pointed out that some of the comments touched on how the emissions fluctuate based upon the water year; how much power we need to import depends on how much is produced with hydro. Did the EPA respond to that in their final decision by averaging it out over a number of years or did they arbitrarily pick a certain time frame? **Mr. Chatburn** said that most of their comments in the submittal on the draft regulation were acknowledged by EPA and they did smooth out the hydro process which made the final regulation more friendly for the Northwestern states of Washington, Oregon and Idaho.

**Mr. Chatburn** reviewed the steps Idaho has taken:

- Participate in discussions with other states, utilities and various stakeholders.
- Received an United States Department of Energy, State Energy Program

Competitive Grant.

- Worked with the Western Interstate Energy Board to explore compliance options and address the penetration of intermittent generation sources.
- Discussed compliance and trading scenarios with other states.

**Mr. Chatburn** closed by saying if the CPP is upheld, the Office of Energy Resources (OER) wants to be in a position where they are not starting at ground zero. OER will continue to monitor that CPP process, explore which compliance options will work the best for Idaho and keep abreast of the carbon regulation efforts in neighboring states.

**Senator Siddoway** asked if Idaho was receiving power from a neighboring state that was reducing its emissions, who would get the credit for that reduction?

**Mr. Chatburn** said that under the final guidelines published by the EPA, any reductions would accrue to the state where that CGU is located.

**Chairman McKenzie** thanked Mr. Chatburn for the energy primer update and stated his appreciation for this tool. Idaho has one of the lowest residential rates listed. That is an important economic advantage for the State.

**MINUTES  
APPROVAL:**

**Senator Buckner-Webb** moved to approve the Minutes of February 1, 2016. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

**ADJOURNED:**

There being no further business, **Chairman McKenzie** adjourned the meeting at 8:38 a.m.

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Senator McKenzie  
Chair

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Twyla Melton  
Secretary



# Idaho Statutes

## TITLE 23 ALCOHOLIC BEVERAGES

### CHAPTER 9 RETAIL SALE OF LIQUOR BY THE DRINK

23-944. EXCEPTIONS FROM RESTRICTION ON ENTERING OR REMAINING. It shall not be unlawful for, nor shall section 23-943, Idaho Code, be construed to restrict, any person under the age of twenty-one (21) years from entering or being:

(1) upon the premises of any restaurant, as herein defined, or in any railroad observation or club car or any airplane of a commercial airline, notwithstanding that such premises may also be licensed for the sale of liquor by the drink or for the sale of beer for consumption on the premises or that alcohol beverages, or beer, or both, are prepared, mixed or dispensed and served and consumed therein.

(2) in any building, a part or portion of which is used as a place, as herein defined, provided such place is separated or partitioned from the remainder of said building and access to such place through a doorway or doorways or other means of ingress can be controlled to prevent persons under the ages specified with respect thereto in section 23-943, Idaho Code, from entering therein.

(3) in any baseball park, sports arena, convention center, multipurpose arena, theater that is presenting live performances or fairgrounds, notwithstanding that such premises or any portion thereof may be licensed for the sale of liquor by the drink, wine or beer for consumption on the premises or that such products are dispensed and served and consumed therein; provided, that the person under the age of twenty-one (21) years is attending a lawful activity, show, exhibition, performance or event on the premises or is required to be present as a condition of his employment. It is lawful for persons under the age of twenty-one (21) years to enter and remain in a baseball park, sports arena, convention center, multipurpose arena, theater that is presenting live performances or fairgrounds so long as the activity, show, exhibition, performance or event is lawful and the person does not violate section 23-949, Idaho Code.

(4) upon the premises of any licensed winery notwithstanding that such premises or any portion thereof may also be licensed for the sale of beer or wine for consumption on the premises or that wine is dispensed and served and consumed therein.

(5) upon the licensed premises of a wine retailer, wholly owned and operated by a licensed winery which retails exclusively the products of that winery.

(6) at a location, other than a liquor, beer, or wine licensed premises, authorized to serve alcohol beverages under a valid alcohol beverage catering permit.

(7) in any movie theater that is allowed to sell beer or wine for consumption on the premises pursuant to a valid license and which movie theater had a license that was valid and not suspended or revoked on January 1, 2006. No films, still pictures, electronic reproductions or other visual reproductions which are in violation of chapter 41, title 18, Idaho Code (indecentcy and obscenity), or are in violation of federal law regarding pornography, indecentcy or obscenity shall be shown or displayed on the premises. As used in this subsection, "movie theater" means a motion picture theater that is being utilized solely for exhibition of a motion picture.

History:

[23-944, added 1955, ch. 195, sec. 4, p. 420; am. 1972, ch. 330, sec. 6, p. 828; am. 1972, ch. 332, sec. 2, p. 834; am. 1987, ch. 212, sec. 7, p. 451; am. 1990, ch. 320, sec. 1, p. 876; am. 1999, ch. 58, sec. 5, p. 149; am. 2000, ch. 361, sec. 1, p. 1198; am. 2003, ch. 111, sec. 2, p. 350; am. 2006, ch. 378, sec. 1, p. 1171.]



# Idaho Statutes

Attachment 1b-RS 24316

## TITLE 23 ALCOHOLIC BEVERAGES

### CHAPTER 9 RETAIL SALE OF LIQUOR BY THE DRINK

23-943. PERSONS UNDER SPECIFIED AGES FORBIDDEN TO ENTER, REMAIN IN OR LOITER AT CERTAIN LICENSED PLACES. No person under the age of twenty-one (21) years shall enter, remain in or loiter in or about any place, as herein defined, licensed for the sale of liquor by the drink at retail, or sale of beer for consumption on the premises; nor shall any licensee of either such place, or any person in charge thereof, or on duty while employed by the licensee therein, permit or allow any person under the age specified with respect thereto to remain in or loiter in or about such place.

Provided, however, it is lawful for persons who are musicians and singers eighteen (18) years of age or older, to enter and to remain in any place as defined in section [23-942](#), Idaho Code, but only during and in the course of their employment as musicians and singers. Provided further, that it is lawful for persons who are nineteen (19) years of age or older to sell, serve, possess or dispense liquor, beer or wine in the course of their employment in any place as defined in section [23-942](#), Idaho Code, or in any other place where liquor, beer or wine are lawfully present, so long as such place is the place of employment for such person under twenty-one (21) years of age. However the foregoing shall not permit the sale or distribution of any alcoholic beverages to any person under the ages specified for sale of alcoholic beverages.

#### History:

[23-943, added 1955, ch. 195, sec. 3, p. 420; am. 1971, ch. 59, sec. 1, p. 134; am. 1972, ch. 330, sec. 5, p. 828; am. 1972, ch. 332, sec. 1, p. 834; am. 1987, ch. 212, sec. 6, p. 450.]

SIR 101

Attachment 2

**Senator Steve Vick**

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**From:** Kane, Brian [brian.kane@ag.idaho.gov]  
**Sent:** Monday, February 17, 2014 11:26 AM  
**To:** Senator Steve Vick  
**Cc:** Teresa Nealis  
**Subject:** Re: Veto Override Amendment

Hi Senator Vick,

It would seem that since the powers are being assigned by a new provision of the Constitution, that it meets the requirements of the Separation of Powers clause. In sum, if this were a statutory proposal, it likely would suffer from a Separation of Powers problem, but as a power defined by the Constitution, it is within the authority of Article II, sec. 1. For your review, I have set forth the Separation of Powers article in its entirety:

Section 1. DEPARTMENTS OF GOVERNMENT. The powers of the government of this state are divided into three distinct departments, the legislative, executive and judicial; and no person or collection of persons charged with the exercise of powers properly belonging to one of these departments shall exercise any powers properly belonging to either of the others, except as in this constitution expressly directed or permitted.

I hope that you find this helpful.

Brian

Sent from my Mobile Device

On Feb 17, 2014, at 11:14 AM, "Senator Steve Vick" <[sjvick@senate.idaho.gov](mailto:sjvick@senate.idaho.gov)> wrote:

Dear Brian,

This morning at the print hearing on the veto override legislation the question was asked about a separation of powers issue with the language ordering the governor to call a special session. It didn't come up in any of our discussions but since it came up in the hearing I thought I should check.

Thanks for your help.

Regards,

*Steve*

Senator Steve Vick  
District 2  
Kootenai County





# Office of Energy Resources

## EPA's Clean Power Plan Overview February 12, 2016

John Chatburn

# Legal Update

- On Tuesday, February 9, 2016 the U.S. Supreme Court granted an application for a “stay” on implementation of the Clean Power Plan (CPP) pending legal review in the District of Columbia (D.C.) Circuit Court of Appeals, and ultimately likely the U.S. Supreme Court
- The DC Circuit is expediting the CPP review with oral arguments scheduled for June 2, 2016
- The OER, DEQ and PUC will continue monitoring the legal process as it unfolds



# Clean Power Plan

- EPA proposes to regulate carbon emissions from existing power plants utilizing Section 111(d) of the Clean Air Act
- The regulation only applies to Electric Generating Units (EGUs) that meet certain criteria
- Idaho only has two EGUs, Langley Gulch near New Plymouth and Lancaster in the Rathdrum area
- However we import over 30% of our electricity from EGUs in neighboring states

## CPP Rule

- On June 2, 2014, the EPA released the proposed Clean Air Act Section 111(d) rule and requested comment
- OER worked with the DEQ, PUC, and stakeholders to develop comments
- EPA released the final Clean Power Plan (111(d)) rule on August 3, 2015
  - Initial deadline for final plan submittal is in 2018, the compliance start date is 2022, and the final goal by 2030
  - If the CPP is upheld, at least the initial deadline is likely to be extended

# Overview of the Final Rule

- States must submit their final state plan or a *non-binding* “initial plan submittal and request for extension” no later than September 6, 2016
- Initial analysis of the “Stay” indicates that this deadline will likely be pushed at least into 2017 and most likely beyond
- States that are granted an extension will have until September 2018 or later to submit a final state plan

## Overview Continued

- Any statutory or rule changes necessary to implement a state plan would be brought to the Legislature during a future session
- States must choose one of two Compliance Pathways for their state – mass based or rate based
- States may potentially trade credits with other states that are on the same compliance pathway to accomplish compliance more efficiently



# What Idaho Has Been Doing

- OER, DEQ and the PUC have been engaging with the other states, utilities, and various stakeholders throughout the Western Interconnection
  - Participating with 12 other states in discussions facilitated by Governor Ritter's Center for the New Energy Economy
  - Participating with the Western Interstate Energy Board in exploring compliance options and the potential for state cooperation to address increasing penetration of intermittent generation sources
  - Meeting with other states to discuss compliance pathways and potential trading scenarios

# Final Thoughts

- OER, DEQ, and the PUC will continue to monitor the Clean Power Plan as it advances through the judicial system
- We will continue to explore which compliance options will work the best for Idaho, our utilities and ratepayers, should the CPP be upheld by the courts
- Regardless of what happens with the CPP, OER will continue to monitor the carbon regulation efforts in our neighboring states
  - These efforts may have the potential to affect the coal fired generation that Idaho depends on

Thank You  
Questions?

AGENDA  
**SENATE STATE AFFAIRS COMMITTEE**  
8:00 A.M.  
Room WW55  
Monday, February 15, 2016

SUBJECT	DESCRIPTION	PRESENTER
<a href="#">RS24494</a>	STATING THE FINDINGS OF THE LEGISLATURE and endorsing the need for a second veterans cemetery in Eastern Idaho.	Senator Mortimer
<a href="#">RS24490</a>	STATING FINDINGS OF THE LEGISLATURE designating the State of Idaho as a Purple Heart State and that August 7 is Purple Heart Day.	Senator Hagedorn

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman McKenzie  
Vice Chairman Lodge  
Sen Davis  
Sen Hill  
Sen Winder

Sen Siddoway  
Sen Lakey  
Sen Stennett  
Sen Buckner-Webb

COMMITTEE SECRETARY

Twyla Melton  
Room: WW42  
Phone: 332-1326  
email: sstaf@senate.idaho.gov



MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Monday, February 15, 2016

**TIME:** 8:00 A.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Lodge, Senators Davis, Hill, Winder, Siddoway, Lakey, Stennett and Buckner-Webb

**ABSENT/ EXCUSED:** None

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**CONVENED:** **Chairman McKenzie** called the Senate State Affairs Committee (Committee) to order at 8:00 a.m. with a quorum present.

**RS 24494** STATING THE FINDINGS OF THE LEGISLATURE and endorsing the need for a second veterans' cemetery in Eastern Idaho.

**Senator Mortimer**, District 30, stated that he was appearing before the Committee representing veterans' and cosponsor Senator Hagedorn. This legislation establishes the State's commitment to request a federal grant to construct and fund a second veterans' cemetery in Eastern Idaho. This commitment is necessary for the Idaho Division of Veterans' Services (Division) to proceed with an application for a federal grant from the Department of Veterans Affairs to provide 100 percent of the allowable construction cost for the cemetery. There has been a considerable amount of work already accomplished including reviewing 30 sites and reducing that number down to three. There is no fiscal impact at this time. The federal government will be responsible for 100 percent of the costs, but the Division is responsible for 10 percent until the construction is complete. That is approximately \$2 million, which is expected to come from the Veterans' Recognition Fund. Although no General Fund money will be used for construction costs, the Division will require about \$150,000 per year from the General Fund for ongoing maintenance and operations.

**Senator Stennett** asked about the process involved to apply for funds from the Veterans' Recognition Fund. **Senator Mortimer** explained that the process starts with reviewing sites and reducing them to an appropriate level. The next step is to provide support through this resolution. After that support is shown, the application is sent to the Department of Veterans' Affairs, Federal Grants Affairs where it will be on a prioritized list. Idaho would rate fairly high because of the number of veterans who are underserved/unserved within a geographic area. Upon approval, the construction of the cemetery could proceed.

**Senator Stennett** asked if the geographical area is Eastern Idaho would a cemetery serve parts of Montana or Wyoming? **Senator Mortimer** stated that Montana has four veterans' cemeteries and Wyoming has one or two. The primary focus would be on Eastern Idaho but it is open to all veterans.

**Senator Buckner-Webb** asked how many sites have been vetted. **Senator Mortimer** answered that they had vetted 30 sites and reduced the number to three. One site is in Blackfoot and two are in Idaho Falls. **Senator Buckner-Webb** asked who did the vetting? **Senator Mortimer** said that he was involved with the two sites in Idaho Falls, along with a much larger citizens group.

**MOTION:** **Senator Buckner-Webb** moved to send **RS 24494** to print. **Senator Lakey** seconded the motion.

**Senator Siddoway** asked who would provide the funding for the ongoing maintenance of the cemetery. **Senator Mortimer** said that ongoing maintenance would be paid for by the State from the General Fund at approximately \$150,000 per year.

**Senator Davis** commented that if the veterans' cemetery maps are reviewed, they would show that there are large areas that are underserved or not served at all. The area selected meets the federal definition and standards for need. There are many Idaho veterans who are excited about this possibility. It will also serve portions of Southern Montana and portions of Western Wyoming. The principle draw will be in Eastern Idaho.

The motion carried by **voice vote**.

**RS 24490** STATING THE FINDINGS OF THE LEGISLATURE designating the State of Idaho as a Purple Heart State and that August 7 is Purple Heart Day in Idaho.

**Senator Hagedorn**, District 14, explained that this RS recognizes the approximately 3700 Purple Heart recipients in the State. I-90 in Northern Idaho has been designated as a Purple Heart Byway; there is a Purple Heart plate for recipients; and there are 4 Purple Heart cities within the State. This legislation is allowing Idaho to do what 14 other states have done, designating themselves as a Purple Heart State. **RS 24490** also provides that August 7 be recognized as Purple Heart Day in Idaho. There is no cost to the State.

**Senator Winder** thanked Senator Hagedorn for all the work he does for veterans and for his service. Why August 7? **Senator Hagedorn** stated that the Military Order of the Purple Heart picked August 7 and he will have that information should this go to the floor.

**Senator Stennett** asked if there is anything extra that happens in addition to the declaration. **Senator Hagedorn** said that there wasn't. It allows the Military Order of the Purple Heart local chapters to have a day of celebration and recognition.

**Senator Davis** said that on August 7, 1782, President George Washington issued an order establishing the Badge of Military Merit that eventually became known as the Purple Heart. That is the reason for the August 7 date.

**MOTION:** **Senator Stennett** moved to send **RS 24490** to print. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

**ADJOURNED:** There being no further business, **Chairman McKenzie** adjourned the meeting at 8:15 a.m.

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Senator McKenzie  
Chair

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Twyla Melton  
Secretary

AMENDED AGENDA #1  
**SENATE STATE AFFAIRS COMMITTEE**  
8:00 A.M.  
Room WW55  
Wednesday, February 17, 2016

SUBJECT	DESCRIPTION	PRESENTER
<a href="#">S 1298</a>	RELATING TO THE RACING COMMISSION to direct the Commission to make certain payment to the Idaho Horse Council under specified conditions.	Senator Rice
<a href="#">RS24539</a>	RELATING TO PUBLIC SCHOOL INSTRUCTION to provide when the Bible is permitted to be used in the public schools with exceptions.	Senator Nuxoll
<a href="#">S 1218</a>	RELATING TO CODIFIER'S CORRECTIONS.	Katharine Gerrity
<a href="#">S 1297</a>	RELATING TO ELECTIONS to provide additional duties of the Idaho Transportation Department upon request of the office of the Secretary of State.	Lawrence Denney, Secretary of State

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman McKenzie  
Vice Chairman Lodge  
  
Sen Davis  
Sen Hill  
Sen Winder

Sen Siddoway  
Sen Lakey  
  
Sen Stennett  
Sen Buckner-Webb

COMMITTEE SECRETARY

Twyla Melton  
Room: WW42  
Phone: 332-1326  
email: [sstaf@senate.idaho.gov](mailto:sstaf@senate.idaho.gov)

MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Wednesday, February 17, 2016

**TIME:** 8:00 A.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman McKenzie, Senators Davis, Hill, Winder, Siddoway, Stennett and Buckner-Webb

**ABSENT/ EXCUSED:** Vice Chairman Lodge and Senator Lakey

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**CONVENED:** Chairman McKenzie called the Senate State Affairs Committee (Committee) to order at 8:04 a.m. with a quorum present.

**S 1298** RELATING TO THE RACING COMMISSION (Commission) to direct the Commission to make certain payment to the Idaho Horse Council under specified conditions.

**Chairman McKenzie** introduced **Senator Rice** who explained that as a result of the repeal of historical horse racing, \$143,314 was left in a designated account. **S 1298** directs the Commission to distribute the funds to the Idaho Horse Council, specifically for youth equine education and promotion of equine-related youth development programs. **Senator Rice** specified that the funds would be held in a separate account and be subject to audit.

**MOTION:** **Senator Stennett** moved to send **S 1298** to the floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

**RS 24539** RELATING TO PUBLIC SCHOOL INSTRUCTION to provide when the Bible is permitted to be used in the public schools with exceptions.

**Senator Nuxoll** recounted the history of the legislation and stated that the purpose of this RS was to remove fears and anxiety by students and parents who desire to use the Bible for reference in public schools by codifying a practice already allowed. She stated that no one is required to use religious texts and that the Bible is designated because of its importance in understanding western civilization. **Senator Nuxoll** noted the Supreme Court's 1963 ruling in Abington Township School District v. Schempp, which found that public schools may use religion as part of education. She listed other states with legislation similar to **RS 24539**.

**Senator Davis** asked if Arizona's legislation has ever been challenged in the courts. **Senator Nuxoll** stated no. **Senator Davis** asked if there had been an Attorney General's opinion on this legislation with respect to constitutionality. **Senator Nuxoll** indicated yes. There has been a recent language addition and she has asked for another opinion. **Senator Stennett** asked why, in a blended country with students of varied religions, would not the language "and any other religious doctrine" be as easily used as "Bible." **Senator Nuxoll** reiterated her previous statement that the Bible was used in the founding of this nation as well as being imbedded in our Western culture; any other religious texts would be allowed.

**MOTION:** **Senator Hill** moved to send **RS 24539** to print. **Senator Winder** seconded the motion. The motion carried by **voice vote**. **Senator Stennett** and **Senator Buckner-Webb** asked to be recorded as voting nay.

**CLARIFICATION:** **Chairman McKenzie** noted that he had overlooked Myron Amsden who had signed up to testify in support of **S 1298**.

**S 1218** RELATING TO CODIFIER'S CORRECTIONS

**Chairman McKenzie** introduced Katharine Gerrity and explained that he had carried this bill on the floor for many years.

**MOTION:** **Senator Davis** moved to send **S 1218** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

**S 1297** RELATING TO ELECTIONS to provide for additional duties of the Idaho Transportation Department upon request of the Office of the Secretary of State.

**Chairman McKenzie** welcomed Lawrence Denney, Secretary of State. **Secretary Denney** explained that **S 1297** authorizes the Office of Secretary of State to implement and build an online voter-registration system with the requirement of a valid driver's license or identification card. He stated that this legislation would comply with the affirmation requirement of Idaho Code § 34-41. **Secretary Denney** further explained that the legislation required a digital copy of the applicant's driver's license or identification card signature from the Idaho Transportation Department (ITD). He outlined the verification process of an application. He stated that the second section of legislation directs the ITD to supply the signature information requested. **Secretary Denney** summarized online registration throughout the country and listed the benefits.

**Senator Buckner-Webb** requested information about personal identification. **Secretary Denney** indicated that the online form would include an affirmation under oath.

**Senator Stennett** questioned the possible expense to the ITD. **Secretary Denney** referenced the fiscal impact of \$258,000 in the Statement of Purpose; ITD's portion would be \$10,000. The major cost would be to design software within the Office of the Secretary of State.

**Senator Winder** outlined the security maintained by the ITD and wondered if the same level of security would be maintained by the Office of the Secretary of State. **Secretary Denney** stated that only the digital signature would be transferred to the Office of the Secretary of State for verification.

**Senator Davis** referred to subpart (2), page 1, lines 20-21, "a form prescribed." Will that be subject to legislative review through rules? **Secretary Denney** responded that it would be very much like the paper form currently in use. **Senator Davis** asked if there should be a specific reference to "retaining" the digital copy of a driver's license or identification card. **Secretary Denney** answered yes. The digital copy is needed when they compare signatures on the poll books and when an absentee ballot is requested.

**Chairman McKenzie** indicated that language from Utah code was used as an example for drafting this legislation. His interpretation was when the Office of the Secretary of State "obtained" the information it would be "retained" unless specifically prohibited in statute.

**Senator Davis** observed that the wording in subpart (6), page 2, line 6, stated "may use such security measures." Shouldn't that be a "must" or "shall?" **Secretary Denney** said that was a policy decision and could be changed.

**Chairman McKenzie** stated that subpart (6) was to clarify that they were granting the authority to go beyond the security measures that were currently in place for paper registration forms.

**Senator Siddoway** asked why there is an emergency clause? **Secretary Denney** responded that with the legislation draft changes, the emergency clause is unnecessary; the projected implementation of online registration is March 2017.

**Senator Davis** recalled when the federal government implemented the National Voter Registration Act of 1993, known as the Motor Voter Act, and the Help America Vote Act of 2002. He asked if this legislation would affect Idaho's option on the federal implementation? **Secretary Denney** explained that Idaho had opted to implement same-day registration over "motor-voter" registration and stated that online voter-registration legislation does not change Idaho's option.

**Chairman McKenzie** introduced Phil McGrane, Ada County Chief Deputy Clerk. **Mr. McGrane** indicated that online voter registration is long overdue and would benefit Ada County. Voter registration is good policy and makes voting more accessible. He recounted historical registration data and the benefits of online registration.

**Senator Stennett** asked about the procedure if the signatures do not match. **Phil McGrane** indicated that non-matching signatures are reviewed and voters are contacted by employees trained by law enforcement. If there is no resolution, the registration is set aside to be used if needed in election contests.

**MOTION:**

**Senator Davis** moved to send **S 1297** to the 14th Order of Business for possible amendment. **Senator Hill** seconded the motion. **Senator Davis** outlined his intentions for the amendment. **Chairman McKenzie** indicated that Senator Burgoyne has been added as a co-sponsor. The motion carried by **voice vote**.

**ADJOURNED:**

There being no further business, **Chairman McKenzie** adjourned the meeting at 8:45 a.m.

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Senator McKenzie  
Chair

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Twyla Melton, Secretary

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Assisted by Marian Smith

## **Idaho Horse Council Youth Program Fund**

### **Education:**

The education process will be two fold;

1. To reach youth that are interested in obtaining a horse but don't know how or what the commitment is
2. To inform the current owner as to all the various avenues open to them in the equine world

By collaborating with area trainers, farriers, veterinarians, tack store owners, breed organizations

By reaching out through various mediums to bring these youth and their parents together at facilities thru out the state. Activities that will engage youth and their families in hands on programs that build confidence and encourage responsibility.

This will be a starting place for these families and provide them with the knowledge of how to proceed and with what discipline they are interested in.

The IHC will need to rent area facilities in appropriate size to accommodate these activities.

### **Promotion;**

Produce and assimilate current information in all areas of the equine lifestyle in Idaho. The annual Idaho Horse Expo held each year on the 3<sup>rd</sup> weekend in April at the Idaho Horse Park in Nampa is a great place to promote and introduce these programs through seminars, social media, booths and further promote our youth.

The IHC is the only organization in the state that represents all breed and disciplines so is in a unique position to promote the equine industry.





## **Youth Development:**

By assisting all of the various youth organizations throughout the state we can allow youth to find their passion and to be able to resist negative peer pressure by offering a positive learning environment.

By using equine as a catalyst, research has found by involving these youth and families in an equine program, their maturity, responsibility level and work ethic are enhanced.



16114 Idaho Center Blvd. #5  
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(208) 465-5477

[idahohorsecouncil@yahoo.com](mailto:idahohorsecouncil@yahoo.com)

## **Idaho Horse Council**

*Past President*

***Myron Amsden***

208-571-1878

[www.idahohorsecouncil.com](http://www.idahohorsecouncil.com)





# **Idaho Horse Council**

Representing the Idaho Horse Industry

The Idaho Horse Council has, for 40 years, worked to protect and promote the horse industry. Up to 26 different clubs have belonged to the IHC over the years to further the common interest of the horse industry. The IHC serves as spokesman of the industry to governmental and regulating bodies. We have worked with horsemen, veterinarians and the Department of Agriculture to develop rules for the potentially devastating disease of EVA, which was diagnosed in the Twin Falls area recently. Our committee member's travel at their own expense often times taking off of work or sacrificing vacation plans.

The IHC encourages its Directors and members to attend planning and zoning meetings all over the state to protect property rights with regard to horses. We testified to keep trails open to horses in Eagle Island State Park. In one of the last proposed plans, horses were phased out. After the Horse Council's testimony, horses and horse trails are alive and well at Eagle Island State Park.

We maintain a permanent office and staff all to answer questions and supply an informational resource to horsemen, business's and governmental agencies. We have put on, through largely volunteer effort, one of the largest equine "Expo's" in the northwest... introducing horsemen and non-horsemen to the latest clinicians, events and related gear, etc. All of the monies go back into the horse industry for promotion and protection.

We affect legislation on a state and national level as it relates to equine health, promotion (creation of the Idaho Horse Board) and protection of trails, racing and a multitude of horse related issues.

We have supported the funding of a horse census, which is vital informational resource for legislative bodies, businesses and promotional events. We helped pass the Equine Activity Immunity Act in Idaho, helping to mitigate the liability of horse owners and users.

The Idaho Horse Council provides 3 - \$1,500.00 scholarships to three Idaho students who have been active within some area of the equine industry.

We constantly work for your "right to ride"... The IHC is always alarmed about the decline of open spaces in which to keep and enjoy our horses in light of rapid urbanization in Idaho. We, and all of our members, recognize that we must protect our historical heritage and traditions. We believe horses enhance the quality of life in our communities and we believe horses contribute to our state's scenic beauty as well as its economy.

Steve Taylor  
Idaho Horse Council President

## **Idaho Horse Council**

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## IDAHO HORSE COUNCIL Membership Form

### \$ \_\_\_\_\_ Organizational Membership

A list with name & address for each member should be submitted by email if possible..  
1 through 25 members - \$50 minimum  
25 through 250 members - \$2 per member (\$500 maximum membership fee)

### \$ \_\_\_\_\_ Business/Associate Member

\$50 Membership fee

### \$ \_\_\_\_\_ Individual & Family Membership

\$30 Membership fee

Name /Organization: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
e-mail: \_\_\_\_\_  
President/Contact: \_\_\_\_\_  
Number of members in organization: \_\_\_\_\_

**Please mail this completed form to:**

**Idaho Horse Council**  
16114 Idaho Center Blvd. # 5,  
Nampa Idaho 83687  
Phone: (208) 465-5477  
Fax (208) 465-5480



**Representing  
the Idaho  
Horse Industry**

## IDAHO HORSE COUNCIL OBJECTIVES

- Further the common interest of the Idaho Horse Industry.
- Promote horse related activities and programs.
- Serve as spokesperson and communicate within and outside the industry.
- Protect and support programs for the natural and environmental resources vital to the horse industry.
- Promote the highest standards of sportsmanship for the use of the horse as a source of healthful recreation and welfare of Idaho residents.
- Support and develop programs and activities, which enhance the marketing of horses.
- Encourage the humane and appropriate treatment vital to the horses best welfare.
- Serve as an advisory body to the University of Idaho, College of Agriculture and the Idaho Department of Agriculture regarding the horse industry and related horse activities and programs.



**Horse  
Council**

**Representing the  
Idaho  
Horse Industry**

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# ACTIVITIES OF THE IDAHO HORSE COUNCIL

## HISTORY

The Idaho Horse Council was organized in 1975 as a united front to represent the many horse groups, individual horse owners, and members of the related industry. Charter members understood that as horse ownership and use increased so did administrative and legislative regulations involving traveling, trail use, zoning, health standards, tax status, and access to state and federal land. It was realized that horsemen working together present a united and informed organization. With this in mind the Idaho Horse Council is able to provide a significant influence on the decision makers of our state.

The I.H.C. is a non-profit corporation under the laws of the State of Idaho and an active member of the American Horse Council.



## THE PURPOSE

The purpose of the council is to promote every type of horse activity, to be its official voice in Idaho, to monitor legislation affecting horse activity, and to act as an information resource for horse owners and regulating bodies. The I.H.C. also acts to correlate the many restrictions and regulations declared by federal and state agencies.



## THE NEWSLETTER

The I.H.C. distributes a newsletter to the membership through E-mail and Web Site with pertinent information.



## LEGISLATIVE ISSUES

The Idaho Horse Council has been instrumental in bringing about legislative modification involving animal welfare, including brand issues and animal abandonment, liability insurance, racing and trails.

The Idaho Horse Council successfully lobbied to create an Equine Activity Immunity Act and an equine education account. Pari-mutual funds deposited to the public school account from the Idaho State Racing Commission are to go to the public school fund.

## IDAHO HORSE EXPO

The premier equine exposition in Idaho is sponsored by the I.H.C. each year. It is the greatest presentation of the horse industry to the citizens of Idaho and surrounding states. The Horse Expo offers something for everyone; a large showing of the 27 equine breeds represented in Idaho, educational seminars, trade show exhibits, arena demonstrations, celebrity guests, art displays, Extreme Cowboy Race and the very popular "Stallions On Parade" with stallions of various breeds performing to music and the amazing Private Treaty Horse Sale.



## COLLEGE SCHOLARSHIP

Starting in the year 2000, the Idaho Horse Council began offering three, \$1,000 scholarships for upper level education to graduates of Idaho High Schools. The funds are generated through several activities that occur at the Horse Expo.



## HORSE CENSUS

In 1988 the Idaho Horse Council commissioned the University of Idaho to conduct and publish a horse census and economic impact statement. Survey findings published in the 1991 Idaho Agricultural Statistics magazine show just under one billion dollars spent in Idaho on horses, capital equipment, facilities, travel equipment, and related expenses: including farriers, hay, grain, veterinarians, training, insurance, and advertising. A 2010 study to determine the size of the equine industry in Idaho was conducted by the Social Science Research Unit at the University of Idaho and funded by the Idaho Horse Council and the Idaho Horse Board. Idaho has an estimated 210,000 equine, including riding horses, draft horses, ponies, miniature horses, donkey, mules, wild horses and other equine.

Equine owners paid over \$48 million in salaries to full and part time workers for the care and training of their equine, and a total of \$1.6 billion in assets related to their equine, including the value of the equine, barns, and equipment. Over 4 million acres in Idaho are devoted to the use and care of equine.



## INFORMATION WEB SITE

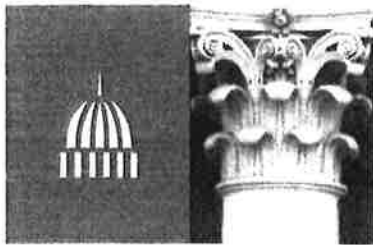
Information about the Idaho Horse Council, the horse industry in Idaho, legislation affecting horse owners and organizations and clubs throughout Idaho can now be found at [www.idahohorsecouncil.com](http://www.idahohorsecouncil.com) and [idahohorsecouncil@yahoo.com](mailto:idahohorsecouncil@yahoo.com) and Idaho Horse Council Facebook. Come visit our site and get connected to everything horse-y in Idaho.



Attachment 2  
02/17/16

Voter Registration Form

Last Name (Please Print Clearly)		First Name	Middle Name	Enter Idaho Driver's License # DL # <input type="text"/>
<b>WARNING: ANY ELECTOR WHO SUPPLIES ANY INFORMATION KNOWING IT TO BE FALSE, IS GUILTY OF PERJURY. Perjury is punishable by imprisonment in the state prison for not less than 1 or more than 14 years. In addition the court may impose a fine of up to \$5,000.</b>				<b>If no Drivers License,</b> enter last 4 digits of Social Security # <input type="text"/>
Are you a citizen of the United States of America? Yes <input type="checkbox"/> No <input type="checkbox"/> If you checked 'no' in response to either of these questions, do not complete this form.				I have not been issued an Idaho DL# or S.S.# <input type="checkbox"/>
Will you be 18 years of age on or before election day? Yes <input type="checkbox"/> No <input type="checkbox"/>				Residence in Idaho Yrs. <input type="text"/> Months <input type="text"/> Male <input type="checkbox"/> Female <input type="checkbox"/>
Residence Address (Do Not Use P.O. Box or Business Address) (If no street address, describe location of residence: cross streets, section, township, range, etc.)				Date of Birth month <input type="text"/> day <input type="text"/> year <input type="text"/>
Mailing address if different from above				Telephone Number (Optional) <input type="text"/>
Address where previously registered				<b>FOR OFFICIAL USE ONLY</b> Precinct Data: <input type="text"/> County <input type="text"/> City <input type="text"/>
<input type="checkbox"/> Check box if name change				Deputy Clerk <input type="text"/> Date Received <input type="text"/>
DO YOU HAVE ANY LEGAL DISQUALIFICATIONS? YES <input type="checkbox"/> NO <input type="checkbox"/> (Idaho felons rights are restored upon completion of full sentence)				
<b>UNDER PENALTY OF LAW:</b> By signing this card, I certify that I am a citizen of the United States and that I shall have been a resident of Idaho and the county for 30 days before the next election at which I vote; that I am at least 18 years of age; and I declare under oath or affirmation that the information supplied herein is true.				
Signature <input checked="" type="checkbox"/> X				
Date of Signature <input type="text"/> month <input type="text"/> day <input type="text"/> year <input type="text"/>				



FEBRUARY 2016

# National Conference of State Legislatures

# LEGISBRIEF

BRIEFING PAPERS ON THE IMPORTANT ISSUES OF THE DAY

VOL. 24, No. 7

## Allowing Voters to Register Online

*By Wendy Underhill*

The biggest trend in election administration in the last few years has been online voter registration. In 2008, only two states allowed eligible citizens to complete a voter registration application online by using personal data stored at the motor vehicle agency. Now, 30 states plus the District of Columbia do—and at least two more are teed up to join the crowd.

### State Action

As the online voter registration trend has developed, legislators have considered several big questions along the way.

#### Did You Know?

- Not a single voter registered online before 2002.
- Currently, 130 million eligible voters can create or update their records online, according to The Pew Charitable Trusts.
- Online voter registration is often adopted to improve voter list accuracy.

**Digital Divide.** In 2008, when only Arizona and Washington offered online voter registration, the concern was over people who didn't have access to computers. What would they do? The answer: Make online registrations a supplement to, not a replacement for, registrations by mail or at the motor vehicle bureau (the most common way people register). In all states, online registration remains an option and is never the rule.

**Costs.** By 2010, when Colorado, Indiana, Kansas, Louisiana, Oregon and Utah introduced online registration, the questions had turned to costs. Would going online save taxpayer money or end up costing more? The answer: Setup cost for a mid-size state is roughly \$250,000. After that, states and local jurisdictions may save money on every registration transaction because they don't have to pay to re-key information. (A Pew study found that in Arizona, for example, registrations on paper cost 83 cents each to process; an online transaction costs 3 cents.)

**Politics.** When California, Maryland, Nevada, New York and South Carolina had joined the group in 2012, the question turned political. Which party benefits? The answer: Neither. Online registrations are in proportion to the number of Democrats and Republicans in the state, and are not skewed either way.

**Security.** Security was the main concern when Connecticut, Delaware, Georgia, Illinois, Minnesota, Missouri and Virginia came aboard by 2014. Although it's hard to say anything is absolutely secure, states have built in many security measures. These include data encryption, the use of data logs that automatically flag unusual activity, multi-screen applications and "captcha" (distorted text) boxes.

**Legislative Action.** When Alaska, Hawaii, Massachusetts, Nebraska, Pennsylvania, Vermont, West Virginia and the District of Columbia turned on their systems in 2015, the question officials asked most often was technical. Do we need legislation, or can we just do it? The answer: States are working it out in their own ways. Alabama, Alaska, Iowa, Pennsylvania

National Conference  
of State Legislatures

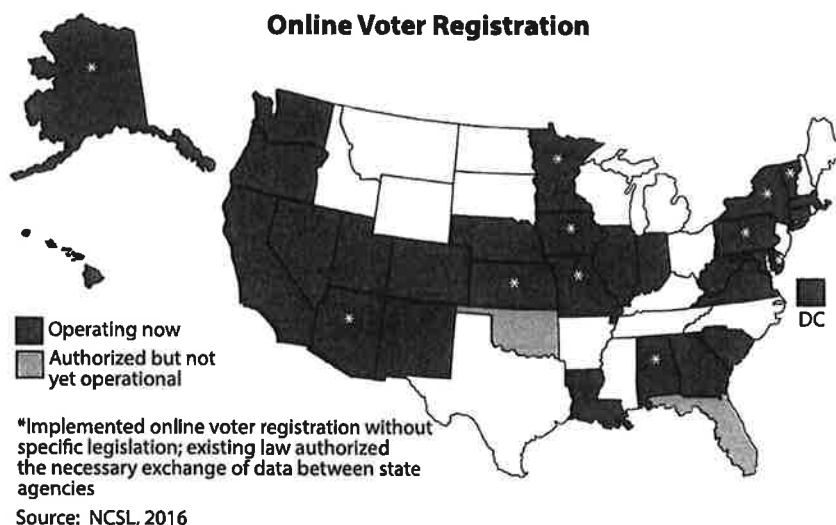
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and Vermont starting using their systems in 2015 and early 2016 without legislation. Indeed, six of the earlier adopters did it without legislation, although at least one legislature—Minnesota's—followed up with authorizing legislation that defined the technical parameters for the online registration system. Lawmakers in Florida, New Mexico and Oklahoma took the more typical approach—legislative authorization—when saying “yes” to online voter registration last year.



Opponents of online voter registration generally are concerned about the costs and security of the systems. Some fear that online registration will lead to online voting, although these are separate policy items. Others are concerned about fraud, or whether minorities would have equal access due to the digital divide. More recently, some disability advocates are questioning states on whether their systems are accessible to all.

Officials are working to address such concerns, however. According to a report from The Pew Charitable Trusts, states are offering forms in multiple languages, adapting systems for mobile devices, enhancing security features and permitting citizens who don't have driver's licenses to register online.

Looking ahead, it's likely more states will offer online registration. Among other groups, the bipartisan Presidential Commission on Election Administration recommends online voter registration, as does the Republican National Lawyers Association. In the states that already have online systems, lawmakers will tweak them in the never-ending quest to make them better.

## **NCSL Contacts and Resources**

Wendy Underhill  
(303) 856-1379

Daniel Diorio  
(303) 856-1474

NCSL, Online Voter Registration Web page

NCSL webinar, Online Voter Registration:  
The Bipartisan Trend in Elections

## **Additional Resources**

The Pew Charitable Trusts. *Understanding Online Voter Registration*. Philadelphia: The Pew Charitable Trusts, January 2014.

The Pew Charitable Trusts. *Online Voter Registration*. Philadelphia: The Pew Charitable Trusts, May 2015.



# Idaho Transportation Department

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## Idaho Driver's Licenses and Identification Cards FACT SHEET

### Who needs a driver's license?

Anyone who operates a motor vehicle on the public roads in Idaho is required to have a valid driver's license.

When moving to Idaho you will need to apply for an Idaho driver's license within 90 days of residing in Idaho, whether your out-of-state license has expired or not. If you have a Commercial Driver's License (CDL), you are required to be licensed in Idaho within 30 days of residing in Idaho.

Students attending a college or university in Idaho and members of the U.S. Military on active duty and their dependents who hold a valid driver's license from another state and who claim residency in that state, are not required to obtain an Idaho driver's license.

### Who cannot be issued an Idaho driver's license?

An Idaho driver's license cannot be issued to anyone who:

- Is not a resident of the state of Idaho
- Is not lawfully present in the United States
- Is under the age of 15
- Is under the age of 17 and has not completed the requirements of Idaho's graduated driver's license program
- Is under the age of 18 and is not enrolled in school or has not completed school as required in Section 49-303A, Idaho Code
- Has a suspended, revoked, or canceled status in Idaho or any other jurisdiction
- Has been adjudged as an habitual drunkard or addicted to the use of narcotics
- Has been adjudged as suffering from mental incompetence that would affect a person's ability to safely operate a motor vehicle and who at the time of application has not been restored to competency
- May be afflicted with any physical or mental condition which brings about momentary or prolonged lapses of consciousness or control
- Is required to take an examination and has not passed the examination

### What is the "One License Law?"

When applying for an Idaho Class D driver's license, you must surrender any driver's license or ID card issued to you from another state, U. S. Territory, Puerto Rico, or the District of Columbia. You do not need to surrender a driver's license issued in a foreign country. However, once you are issued an Idaho driver's license, you are not allowed to use or show your foreign license for the purpose of operating a motor vehicle. If you are applying for an Idaho Commercial Driver's License (CDL), you must surrender any license(s) issued to you by any jurisdiction(s).

### Where do I get a driver's license or Identification Card?

Idaho driver's licenses, instruction permits, or identification cards are issued through the county sheriff's offices. You may apply at the sheriff's driver licensing office most convenient to you.

### What do I need to bring with me?

Bring the applicable items from the list below. Following the list is detailed information about each item.

1. Proof of Age and Identity
2. Social Security Card or Number for Verification
3. Proof of Idaho Residency
4. Acceptable Lawful Presence Documents (if applicable)
5. Foreign Driver's License (if applicable)
6. Visual/Medical Certification (if applicable)
7. Driver Training Completion (if under 17)
8. Liability Signer (if under 18)
9. Verification of School Compliance - VOC (if under 18)

Below is detailed information regarding the above items:

#### 1. Proof of Age and Identity

Driver's license examiners are required by law to verify your age and identity before issuing you a driver's license or ID card. If you have a valid state-issued driver's license or state-issued ID card (with photo) to surrender that contains your full legal name and date of birth, that will be sufficient to prove age and identity. Photocopies or faxes of these documents will not be accepted.

If you do not have a valid state-issued driver's license or state-issued ID card (with photo), you will need to provide a U.S. certified birth certificate and an acceptable photo identity document from Table 1 below. If the birth certificate does not match your current name (such as maiden name vs. married name) a secondary document, such as a marriage certificate, from Table 2 below will be needed.

Note: "Foreign Nationals" can provide a foreign passport in lieu of the U.S. certified birth certificate. In compliance with the National Driver's License Agreement, the foreign passport is the only acceptable document to provide proof of legal name and date of birth. To establish identity a foreign national will need a valid foreign passport and acceptable lawful presence document.

Table 1 - Acceptable Photo Identity Documents (other than state-issued driver's licenses and IDs)

- Acceptable valid Department of Homeland Security (DHS) photocard/document
- U.S. Military ID card or U.S. Retired Military card

- U.S. Military Dependent's card
- U.S. Passport or U.S. Passport card
- Original citizenship/naturalization document
- Foreign passport
- Concealed Weapons Permit issued by the state of Idaho not expired for one year or more
- Veteran's Universal Access Card, with photo
- Native American ID card, with photo

Table 2 below contains acceptable secondary documents that can be used to assist in confirming your identity. Secondary documents alone are not sufficient. These documents must contain your name and enough information to establish proof of all or part of what is contained on the primary document from Table 1 above.

Table 2 - Acceptable Secondary Identity Documents
<ul style="list-style-type: none"> <li>• Certified court name change document</li> <li>• Certified marriage certificate meeting Idaho standards with seal and document number showing that it was recorded</li> <li>• Certified divorce document from a court or state vital records</li> <li>• Guardianship or custody documents, notarized or court certified</li> <li>• Junior or senior high school (not college or university) photo card</li> <li>• Junior or senior high school, college or military yearbook/annual</li> <li>• U.S. Military discharge paper (Form # DD214)</li> <li>• Idaho Department of Corrections photo ID card</li> <li>• Idaho Department of Juvenile Corrections photo ID card</li> </ul>

NOTE: Either the primary document from Table 1 or the secondary document from Table 2 must contain a photo of you.  
**All documents submitted must be acceptable to the examiner or the Idaho Transportation Department.**

## 2. Social Security Card or Number for Verification

Bring your Social Security Number or the original card issued by the Social Security Administration. Your Social Security Number will be verified. It will not be printed on your Idaho driver's license or ID card.

If you do not have a Social Security Number, you may still apply for a driver's license or ID card if you provide a letter from the Social Security Administration stating that you do not have a Social Security Number. You will be required to provide proof of lawful presence in the United States.

## 3. Proof of Idaho Residency

You must reside inside Idaho's borders to be issued an Idaho driver's license or ID card. You will be required to show proof of residency with documents such as lease or rental agreements, utility bills, employment records, school enrollment records, etc. Your home address (where you live) cannot be your workplace, vacation residence, or a part-time residence.

## 4. Acceptable Lawful Presence Documents (if applicable)

Individuals who are not lawfully present in the United States are not eligible for an Idaho driver's license or ID card. Proof of lawful presence may be required for a new issuance or renewal, if you have not previously provided proof of U.S. citizenship or ITD does not have record of it. Acceptable lawful presence documents include:

- Certified original U.S. Birth Certificate
- Certificate of Birth Abroad
- Original Certificate of Naturalization/Citizenship
- Permanent Resident card or Resident-Alien Card
- Employment Authorization card
- Valid Foreign passport and I-94 (Arrival/Departure record)

If you are not a citizen or permanent legal resident of the United States the expiration date on your driver's license will be the same date as your end of lawful stay in the United States as indicated on your documents issued by the Department of Homeland Security or four years, whichever is less. If your Department of Homeland Security documents do not show an expiration date, the expiration date on the driver's license will be one year from the date of issuance of the driver's license.

## 5. Other State or Foreign Driver's License (if applicable)

If you are a foreign driver from any country other than Mexico or Canada, holding a temporary work visa for the United States, you may apply for an Idaho non-resident commercial instruction permit or CDL, and you do not have to surrender your home country license. If you become a permanent legal resident or citizen of the United States and resident of Idaho, you must surrender the non-resident CDL and any other licenses to receive a regular CDL without retesting unless you are upgrading your CDL or are adding endorsements.

If you are from Canada or Mexico you are not allowed to purchase a non-resident CDL. Canadian and Mexican CDL holders are only required to surrender their license if they change their permanent residence from their country of origin to the United States. If they reside in Idaho they can apply for an Idaho CDL. In order to comply with the North American Free Trade Agreement (NAFTA) requirements, if the license you are surrendering was issued in Mexico or Canada you must provide a driving record no older than 30 days.

**Class D -** If you are applying for an Idaho Class D (non-commercial) driver's license and have not been issued a CDL in any jurisdiction, you are not required to surrender your foreign license or provide a driving record. However, an agreement with Korea requires that the Korean driver's license be surrendered if a driving skills test is not taken.

## 6. Visual/Medical Certification (if applicable)

If you have a visual and/or medical condition that could affect your driving, you may be required to provide a statement from your physician certifying that you can operate a vehicle safely. The necessary form may be obtained from the driver's license examiner at your County Driver's License office.

If you have questions regarding any physical or mental condition that may affect your ability to operate a motor vehicle, contact your County Driver's License office.

If you have had eye surgery to improve your vision, the restriction on your driver's license may need to be removed. Contact your County Driver's License office for more information.

#### 7. Driver Training Completion (if under 17)

If you are under 17 years old, you must provide proof that you have completed an approved driver-training program. You must also provide proof that the supervised instruction permit requirement has been met. (See the driver training section of this manual for more information about these requirements.)

#### 8. Liability Signer (if under 18)

If you are under 18 years old, you need to have a birth parent or legal guardian with you to sign consent for you to be licensed. The signer assumes legal responsibility for your actions as a driver. If the liability signer is not the mother or father listed on your birth certificate, you must provide acceptable legal documents (e.g. adoption records or court guardianship documents). The identity of the liability signer will be verified. If the signer's name is different from the one appearing on your birth certificate, additional documents such as a marriage license or divorce decree may be required to verify relationship. If the liability signer cannot be present to sign the application at the county office, the liability signer must complete a power of attorney form giving another person authority to sign for him or her. If you are married, your spouse, who must be at least 18 years of age, may sign for you. As long as you are under 18, the person who signs for you may withdraw consent at any time, which will cause the department to cancel your driver's license.

#### 9. Verification of School Compliance - VOC (if under 18)

If you are under 18 years old you will need to provide acceptable proof of enrollment and attendance in or graduation from a recognized high school or equivalent program. This proof can be in the form of a verification of compliance slip from an acceptable school or program you are attending, a high school diploma, or a general education certificate of completion. When signing the liability statement, your parent(s) must also sign a statement that you are in compliance with the school attendance provisions of Idaho Code.

### What tests will I need to take?

**Vision Screening** - Your vision will be tested and you must meet a minimum standard of 20/40 vision in at least one eye, with or without corrective lenses. If you wear glasses or contacts during the screening, a lens restriction will be placed on your driver's license. If the lens restriction is placed on your driver's license, you must always wear your glasses or contacts when operating a vehicle or you could be cited and lose your driving privileges for a period of time.

**Written Knowledge Test** - If you are a new applicant for an Idaho driver's license or your Idaho driver's license has been expired for more than 25 months, you will be tested on your knowledge of Idaho traffic laws, highway signs by shape and symbol, traffic signals, pavement marking, and equipment required on motor vehicles.

**Skills Test**—A skills test is required for any applicant:

- who has never been licensed before,
- who has completed driver's training and the supervised instruction period,
- whose license has been expired for 25 months or more,
- who presents or surrenders a driver's license issued by a foreign country (except Germany and Korea), or
- whose vision does not meet minimum standards.

A skills test may also be required for any applicant:

- having any mental or physical impairment that might affect the safe operation of a motor vehicle,
- when an examiner has concerns about the applicant's ability to safely operate a motor vehicle, regardless of prior license, experience, or age.

**What if I want to use a name other than the one appearing on my current driver's license, ID card, or on other documents that I present for identity purposes?**

You will need to provide one or more of the following certified documents, dated after the current record, as acceptable proof of a legal name change:

- Certified marriage certificate(s) meeting Idaho standards
- Certified divorce document(s)
- Adoption record
- Court name-change documents(s)

### When can I renew my license?

You may renew your Idaho driver's license in person up to 25 months before the expiration date. A Class D license renewal is valid for either four years or eight years. If you are between the ages of 21 and 62, you may choose the eight-year renewal. Your vision will be checked, and if the examiner thinks it is necessary, a skills test, visual examination, and/or medical examination may be requested. If your driver's license has been expired for 25 months or more, you will be required to take the written knowledge test and the skills test. If your CDL is expired for 25 months or more and you wish to retain CDL privileges, you will need to take the written knowledge test for class D, all written tests pertinent to the CDL, and a skills test in the class of vehicle that matches the class of CDL you are applying for.

### What else should I know?

**Donor Designation** - If you are 18 years of age or older, you may request to have the "DONOR" designation appear on your license or ID card. The designation identifies your wish to donate your organs and/or tissues upon your death to those waiting for transplants. If you want to make limitations, change, or update your donor status, you may do so at [www.yesidaho.org](http://www.yesidaho.org) or call 1-866-YES-IDAHO.

**Selective Service Registration** - Federal law requires all males who are 18 to 25 years of age to register with the Selective Services System. Eligible males will have the opportunity to register when they apply for a driver's license or ID card.

Additionally, the Selective Service System receives notification of all applicants who decline the opportunity to register.

**Address Change** - Idaho law requires you to notify the DMV of any address change no more than 30 days after the move. Keeping your address current with the department helps assure that you will receive notifications to renew your driver's license by mail (if you qualify) and also receive any other important correspondence, such as notices of suspension. It also allows law enforcement personnel to notify you or your family if there is an emergency.

This fact sheet does not discuss all of the eligibility requirements. For further information, please consult the [Idaho Driver's Manual](#).

This fact sheet paraphrases the language of the Idaho Motor Vehicle Code and the Idaho Driver's Manual. Courts go by the actual language of the Code, not this text.

If you have any questions,  
contact your local County Sheriff's (driver's license) office or the Idaho Transportation Department / Driver  
Services at

PO Box 7129,  
Boise, ID 83707-1129

Or browse our web page at: <http://dmv.idaho.gov>

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Division of Motor Vehicles / Driver Services Section  
(208) 334-8736

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Idaho Transportation Department  
3311 W. State Street · P.O. Box 7129  
Boise, ID 83707-1129

AGENDA  
**SENATE STATE AFFAIRS COMMITTEE**  
**8:00 A.M.**  
**Room WW55**  
**Friday, February 19, 2016**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#"><u>HCR 42</u></a>	STATING FINDINGS OF THE LEGISLATURE to congratulate professional football player Matt Paradis.	Senator Lee
<a href="#"><u>RS24548</u></a>	UNANIMOUS CONSENT REQUEST from the Resources and Environment Committee relating to an independent entity to carry out drawings for tags.	Senator Brackett
<a href="#"><u>RS24459C2</u></a>	UNANIMOUS CONSENT REQUEST from the Commerce and Human Resources Committee to imposing a fine in certain instances.	Mark Estess, Eiguren & Ellis Public Policy Firm
<a href="#"><u>RS24531</u></a>	UNANIMOUS CONSENT REQUEST from the Commerce and Human Resources Committee related to an optional health savings program.	Senator Thayn
<a href="#"><u>RS24295</u></a>	UNANIMOUS CONSENT REQUEST from the Local Government and Tax Committee relating to tax deed sales.	Keli Brassfield, Idaho Association of Cities
<a href="#"><u>RS24535</u></a>	UNANIMOUS CONSENT REQUEST from the Local Government and Tax Committee related to the conveyance of certain properties.	Neil Colwell, Avista Corporation
<a href="#"><u>RS24557</u></a>	RELATING TO THE IDAHO UNBORN INFANTS DIGNITY ACT regarding the disposition of organs and tissue.	Dave Ripley, Idaho Chooses Life
<a href="#"><u>RS24033</u></a>	RELATING TO BINGO AND RAFFLES to provide revisions to multiple statutes to clarify charitable gaming laws and requirements easier to find.	Angela Vitek, Charitable Gaming Coordinator
Page Graduation	Nina Harelson - 1st Half of the 2nd Regular Session 63rd Idaho Legislature	Chairman McKenzie

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman McKenzie	Sen Siddoway
Vice Chairman Lodge	Sen Lakey
Sen Davis	Sen Stennett
Sen Hill	Sen Buckner-Webb
Sen Winder	

COMMITTEE SECRETARY

Twyla Melton  
Room: WW42  
Phone: 332-1326  
email: sstaf@senate.idaho.gov

MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Friday, February 19, 2016

**TIME:** 8:00 A.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Lodge, Senators Davis, Hill, Winder, Siddoway, Lakey, Stennett and Buckner-Webb

**ABSENT/ EXCUSED:** None

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**CONVENED:** **Chairman McKenzie** called the Senate State Affairs Committee (Committee) to order at 8:00 a.m. with a quorum present.

**HCR 42** STATING FINDINGS OF THE LEGISLATURE professional football player Matt Paradis on winning the fiftieth Super Bowl football championship.

**Senator Lee** distributed a picture of Matt Paradis to the Committee and explained that **HCR 42** honors the Idahoan and Denver Bronco: the team recently won the fiftieth Superbowl. This resolution is not only about football, but about celebrating a great Idaho man from Council who grew up logging and ranching. Matt went from an eight- man football team in Council to walk-on at Boise State where he won an academic scholarship not a football scholarship. He was drafted in the sixth round by the Denver Broncos, and the following year he started every game with Peyton Manning. **Senator Lee** closed by stating what an honor it is to bring **HCR 42** to the Committee.

**Senator Winder** asked whether anyone has been approached to honor Jordan Gross of Fruitland. **Senator Lee** responded that no one has, but she appreciated the suggestion and expressed her excitement at the prospect of honoring Jordan Gross, another great football player from Idaho, in the future.

**Senator Buckner-Webb** commented on her excitement for the Paradis family and the community of Council.

**MOTION:** **Senator Buckner-Webb** moved to send **HCR 42** to the floor with a **do pass** recommendation. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

**RS 24548** UNANIMOUS CONSENT REQUEST from the Resources and Environment Committee relating to an independent entity to carry out drawings for tags.

**Senator Bracket** explained that **RS 24548** will replace S 1305, which addresses suggestions and concerns of the Fish and Game Department.

**MOTION:** **Senator Hill** moved to send **RS 24548** to print. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

**RS 24459C2** UNANIMOUS CONSENT REQUEST from the Commerce and Human Resources Committee to imposing a fine in certain instances.

**Chairman McKenzie** introduced **Mark Estess**, Eiguren Ellis Public Policy, who was speaking on behalf of the Idaho Bail Coalition, a trade coalition representing bail agents across the State of Idaho. The coalition advocates on public policy issues on

behalf of the commercial bail industry as well as provides education courses for all licensed bail agents, all of whom are regulated by the Department of Insurance.

The purpose of the legislation is to address a problem initially reported by the Kootenai County Sheriff's Office to the Department of Insurance regarding bail agent solicitation of incarcerated inmates who were being paid referral fees. Under current law, the Department of Insurance does not have the regulatory authority to impose penalties on licensed bail agents and their employees who are engaged in this type of conduct. The RS has been drafted in a way that addresses the concerns raised by stakeholders while at the same time ensuring the language provides the authority to the Department of Insurance to impose a fine on a bail agent and/or suspend or revoke a bail agent's license when certain conduct occurs. The RS has broad support from the law enforcement community and the Department of Insurance, all of whom were involved in the drafting process.

**Senator Davis** asked if the reason for the late introduction of the bill was due to working out the language with the stake-holders in time for an introduction before the 36th Day deadline. **Mr. Estess** agreed. There was some language that could be construed as overly broad related to the initial introduction so they developed wording that is more tailored to meet the specific requirements of the Department's regulatory authority.

**MOTION:** **Senator Siddoway** moved to send **RS 24459C2** to print and return to the germane committee. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

**RS 24531** UNANIMOUS CONSENT REQUEST from the Commerce and Human Resources Committee related to an optional health savings program.

**Senator Thayne** explained that this legislation has to do with an optional health savings account that would be offered to State employees beginning in July 2017. The Department of Administration, as the administering agency, requested that an additional line be added.

**MOTION:** **Senator Hill** moved to send **RS 24531** to print. **Senator Lakey** seconded the motion. The motion passed by **voice vote**.

**RS 24295** **Kelli Brassfield**, Idaho Association of Counties, explained that under current law, whenever a county takes over a tax deed, the property is auctioned off and any leftover funds are called excess proceeds. The owners or parties of interest are notified to see where the excess proceeds should go. This legislation would remove the requirement of the second notification and transfer the responsibility of the excess proceeds to the Idaho State Treasurer's Office. This legislation intends to streamline the process and utilize the expertise and technology available at the Idaho State Treasurer's Office.

**Senator Davis** asked for the reason for the late introduction. **Ms. Brassfield** replied that it took awhile to organize this piece of legislation. **Senator Siddoway** interjected, stating that the person who brought this legislation from the association had health problems in her family. Thinking there would be a quick resolution, the legislation was held; ultimately it was passed on to the association. He took responsibility, apologizing for the late print hearing.

**MOTION:** **Senator Siddoway** moved to send **RS 24295** to print. **Senator Lodge** seconded the motion. The motion was approved by **voice vote**.

**RS 24535** UNANIMOUS CONSENT REQUEST from the Local Government and Tax Committee related to the conveyance of certain properties.

**Neil Colwell** presented **RS 24535** on behalf of Avista Corporation. **Mr. Colwell** stated that the legislation has to do with a legal conundrum brought up by counties



when they sell property acquired under a tax deed. He stated that the issue revolves around whether easements are transferred when sales are made by the counties. Disagreements are related to encumbrances versus easements. They are attempting to clarify that easements transfer when the county makes a property sale just as they would for any other property owner.

**Senator Lakey** disclosed a possible conflict of interest in that his law partner is working on a case related to the issue, although he has not personally been involved in the case.

**Senator Davis** asked **Mr. Colwell** to explain the reason for the late introduction. **Mr. Colwell** explained that this issue has evolved over the last year and affects a large number of stakeholders including any party who can have an easement. The counties pulled the stakeholders together at the beginning of the session. There was considerable discussion regarding whether they should pursue a legislative solution at the time. There were current legal issues that needed to be appropriately resolved. In early January a subcommittee of legal minds was created to craft a solution that would be fair to all parties. Upon reaching a conclusion, **RS 24535** was the proposed solution.

**MOTION:** **Senator Winder** moved to send **RS 24535** to print and then to the germane committee. **Senator Siddoway** seconded the motion. The motion passed by **voice vote**.

**RS 24557** RELATING TO THE IDAHO UNBORN INFANTS DIGNITY ACT regarding the disposition of organs and tissue.

**Dave Ripley**, Idaho Chooses Life, explained that the Idaho Unborn Infants Dignity Act is a broad response to disturbing revelations over the past six months regarding the treatment of pre-born children lost to an abortion. This legislation seeks to ensure that Idaho's pre-born children are not subjected to desecration after their deaths. **Mr. Ripley** emphasized that this bill does not restrict or even affect a woman's ability to obtain an abortion. To explain what **RS 24557** does do, **Mr. Ripley** asked permission to read from the bill starting on page 1, line 24, reading, "It continues to be the public policy of the state of Idaho to promote live childbirth over abortion. Permitting the sale, transfer, distribution or donation of the bodily remains of aborted infants, particularly for pecuniary gain, and the use of the remains of aborted infants for experimentation undermine that public policy as well as proper ethical standards of medical conduct." **Mr. Ripley** then explained that this legislation would prohibit the harvesting of organs or tissue from aborted babies. It would also prohibit human or animal experimentation using tissue or organs harvested from aborted babies. This bill ensures that mothers have the right to ensure that the remains of their deceased pre-born children are properly provided for. It would expand the provision of death certificates for mothers who have suffered a miscarriage. This legislation continues to allow for the donation of fetal organs and tissue in cases other than abortion, but only when the mother has given informed consent. Under the terms of the legislation, medical research can advance, but only under strict ethical standards of conduct. **Mr. Ripley** then asked the Committee to support the enactment of these safeguards of public decency and stated that it is imperative that Idaho reject any suggestion that a civilized society should seek to benefit from abortion or that any good can be wrought from abortion.

**Senator Buckner-Webb** asked **Mr. Ripley** whether he had talked to the Idaho Department of Health and Welfare's Bureau of Vital Records and Health Statistics (Vital Statistics), recalling that around 2009 there was some conversation about fetal death certificates; the people working in Vital Statistics opposed the idea of fetal death certificates because of unintended consequences. **Mr. Ripley** responded that this legislation allows the Idaho Department of Health and Welfare to create a procedure best suited to their practices. He further stated that current Idaho law

allows for death certificates for fetal death in case of stillbirth, which is 20 weeks or later. This legislation would allow for death certificates to be issued in the case of death earlier in the pregnancy. The primary purpose of death certificates is to acknowledge life and to comfort the parents of babies lost through miscarriage. **Mr. Ripley** stated that he didn't believe there were any legal consequences of issuing a death certificate other than to acknowledge that a death had occurred. **Senator Buckner-Webb** asked for clarification as to whether **Mr. Ripley** had or had not talked to Vital Statistics about this legislation. **Mr. Ripley** replied that he had not specifically talked with them.

**Senator Stennett** asked whether there was any piece of the legislation being presented that inadvertently covers what Idaho already has constitutionally as it pertains to rape and incest. She asked if this language is undoing anything as far as what we allow in current law for abortions in those instances. **Mr. Ripley** stated that this legislation has no effect upon the ability of a woman to obtain an abortion in any circumstance. Rather, it addresses what happens after the abortion with the remains of the baby. There are certain outlines of procedures and strengthening of basic concepts of decency in which a baby's remains are treated as any other human being's remains would be treated. **Senator Stennett** asked if this legislation meant that in any instance where an abortion happens, the remains not go toward science. She pointed out that **Mr. Ripley** is talking about treating unborn babies in the same fashion as adults. Adults donate parts and say we want to be on a donor list after passing; she requested clarification on this point. **Mr. Ripley** replied that this legislation would, in the case of miscarriage or stillbirth, protect the ability of the mother or parents to decide whether they want to donate the organs or tissue under the strict guidelines of informed consent. In the cases of abortion, however, this legislation would prohibit that transfer.

**Senator Siddoway** referred to page 3, 39-9306, where it states that no person can transfer or donate the remains of an aborted child. He asked if he or a member of his family is an organ donor and had the misfortune of losing a child before it was born, and the mother chose to donate an organ for another child that needed a new heart, kidney, eye, etc., does this bill restrict that? He asked if 39-9306 is just for medically aborted babies or does it preclude a mother who lost a child during pregnancy from donating organs or tissue. **Mr. Ripley** replied that, no, this bill does not preclude a mother who suffered a miscarriage from donating organs or tissue.

**Senator Hill**, noted that he would want an answer to his question if the bill comes back to the Committee for a public hearing. He referred to page 3, 39-9307, and stated that subsection 2 and subsection 3 seem to be in conflict with each other. Subsection 2 says there won't be any restrictions regarding the identity of the recipients, which means their names can be made available in any way after the mother gives consent. In subsection three, the mother has to say that she has not been informed of the identity of the recipients. **Senator Hill** reiterated that he was giving **Mr. Ripley** a heads up to address the issue if the legislation comes back for a hearing before the Committee.

**Senator Buckner-Webb** asked whether the bill would force the State to deviate from safe handling of tissue and medical waste regulations and hospital protocols already in place. **Mr. Ripley** replied that this legislation would not cause any deviation. Rather, it would make certain that in cases of miscarriage and stillbirth, the institution, such as a hospital, has the right to make the decisions and determinations about how that baby's remains are disposed of, which would involve current law with respect to how that baby's body is dealt with and the internment of that body. **Senator Buckner-Webb** clarified that she is asking about an early-term abortion or miscarriage in which a dilate and curettage (D and C) is performed and whether **Mr. Ripley** has asked the state about the medical guidelines for safe handling of the

tissue. **Mr. Ripley** replied that this legislation does not affect those practices and for that reason he has not spoken with the State about those guidelines.

## MOTION

**Senator Lakey** moved to send **RS 24557** to print. **Senator Hill** seconded the motion. **Senator Buckner-Webb** requested a roll call vote. **Senators McKenzie, Lodge, Davis, Hill, Winder, Siddoway and Lakey** voted aye; **Senators Stennett and Buckner-Webb** voted nay.

## RS 24033

RELATING TO BINGO AND RAFFLES to provide revisions to multiple statutes to clarify charitable gaming laws and make requirements easier to find.

**Angela Vitek**, Charitable Gaming Coordinator, Idaho State Lottery Commission (Lottery), stated that she has been the Charitable Gaming Coordinator for about five years and works directly with the charitable organizations. Many of these charitable organizations are staffed with volunteers who have full-time jobs and families. Due to this, there is a high turnover in volunteers. **Ms. Vitek** said she receives between 10 and 15 phone calls daily with requests to describe the code and rules. Current code and rules are convoluted, hard to understand, and they contain things in subsections that don't apply to the rest of the subsection. That makes it hard for volunteers to know which key points to find to be compliant with the current code and rules. The Lottery and Attorney General's office decided to review and rearrange these codes and make them easier to read and understand. Certain sections were broken out into subsections to make the code clear. The Lottery also felt there were some changes that needed to be made to address concerns from the Attorney General's office.

**Senator Davis** stated that he sees where things have been moved around structurally and that makes more sense. There is a lot to like. **Senator Davis** questioned the definition of "charitable purpose." Is there any substantive difference in that definition on page 2 than what is on page 5? **Ms. Vitek** said there was not. They tried to match the definition with the Internal Revenue Service's (IRS) definition of "charitable purpose."

**Senator Davis** indicated that punctuation and wording issues make subpart 4 difficult to understand. He read subpart 4 up to the "or for" after "purchase" on line 18. He said that "or for" is a new definition of a "charitable purpose," and everything before that is a stand-alone. After the word "purpose" on line 18, it seems a semicolon belongs there. The "or for" is new and goes to the word "purposes" on line 21; "or" then becomes the next series that goes to line 22 where there should be a semicolon after "time". **Senator Davis** described this as segmenting. Then on line 23 after the word "petition," there should be a semicolon instead of a comma. For him, that makes the definition flow better. He asked if subpart 4 had those semicolons instead of commas, is that how the Lottery intends for the definition of "charitable purposes" to read? **Ms. Vitek** agreed.

**Senator Davis** turned to page 3, line 26, "nonprofit organization." It looks like this would impose a one-year organizational standard before there can be any participation. Why? **Ms. Vitek** replied that the IRS requires nonprofit organizations be in existence for one year; the objective is to have the Idaho nonprofits that do not report to the IRS have the same requirement so there would be some consistency.

**Senator Davis** turned to page 8 and asked why the language on lines 9-11 was being struck. **Ms. Vitek** answered that this suggestion came from the Attorney General's office; it referred to duplicate language.

**Senator Davis** asked why all of the language on pages 11-12 should be stricken. **Ms. Vitek** explained that current code has licensing fees and suspension revocation under the same section. She explained that those didn't necessarily belong together; therefore, they moved each of these into their own section with the same language.

**Senator Hill** referred to page 11, lines 7-8, stating a charitable organization with no history has to be in existence for at least one year. Why has a specific part been struck regarding organizations with no history that have to pay \$100, due to the fact that organizations must have a one-year history moving forward. **Ms. Vitek** responded that the application fee was moved up and can now be found on page 10, line 15 at the top of the licensing fee structure because it is a first-time application fee. Current code notes the application fee at the bottom of that section and then a renewal fee. Most organizations were confused with the first-time application fee and the renewal applications.

**MOTION:** **Senator Davis** moved to return **RS 24033** to the sponsor for the purpose of making the adjustments in the definitions section. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

**Senator Hill** commented that he didn't understand why the bill required a fee for charitable organizations with no history when organizations must have been in existence for at least one year to apply. **Ms. Vitek** clarified that the fee applies to charitable organizations that have held a raffle or a bingo game license. There is a licensure requirement system. If it's a low-stakes raffle or bingo, there is no need to apply. The \$100 application fee doesn't have anything to do with the organization's existence.

**PAGE GRADUATION:** **Chairman McKenzie** commented that one of his favorite times in Committee is when there is an opportunity to congratulate the Committee's Page. He asked Committee Page, Nina Harelson, to come to the podium. Chairman McKenzie stated that the Committee could not function smoothly without the help of his secretary, Twyla Melton, and her guidance to the pages. He commented that the Committee's Page was focused and the Committee is glad to have had her. **Chairman McKenzie** asked Nina to describe her experience and some surprises she encountered while serving the Committee.

**Nina Harelson** shared that she didn't know what she was getting into when she started as a page. Former Senator Frasure, her teacher, recommended the page program to her and she applied knowing she would learn from the experience. She stated that the experience was far better than anything she would have received in a classroom because she saw the real-life workings of the Legislature. She further explained that she learned the legislative process through watching bills pass from committees to their intended destination in the legislative process and saw how extensive the legislative process was.

**Chairman McKenzie** thanked Ms. Harelson for her work and presented her with a Certificate of Appreciation signed by each Committee member, a letter of recommendation signed by the Chairman and a gift from the Committee.

**ADJOURNED:** There being no further business, **Chairman McKenzie** adjourned the meeting at 8:45 a.m.

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Senator McKenzie  
Chair

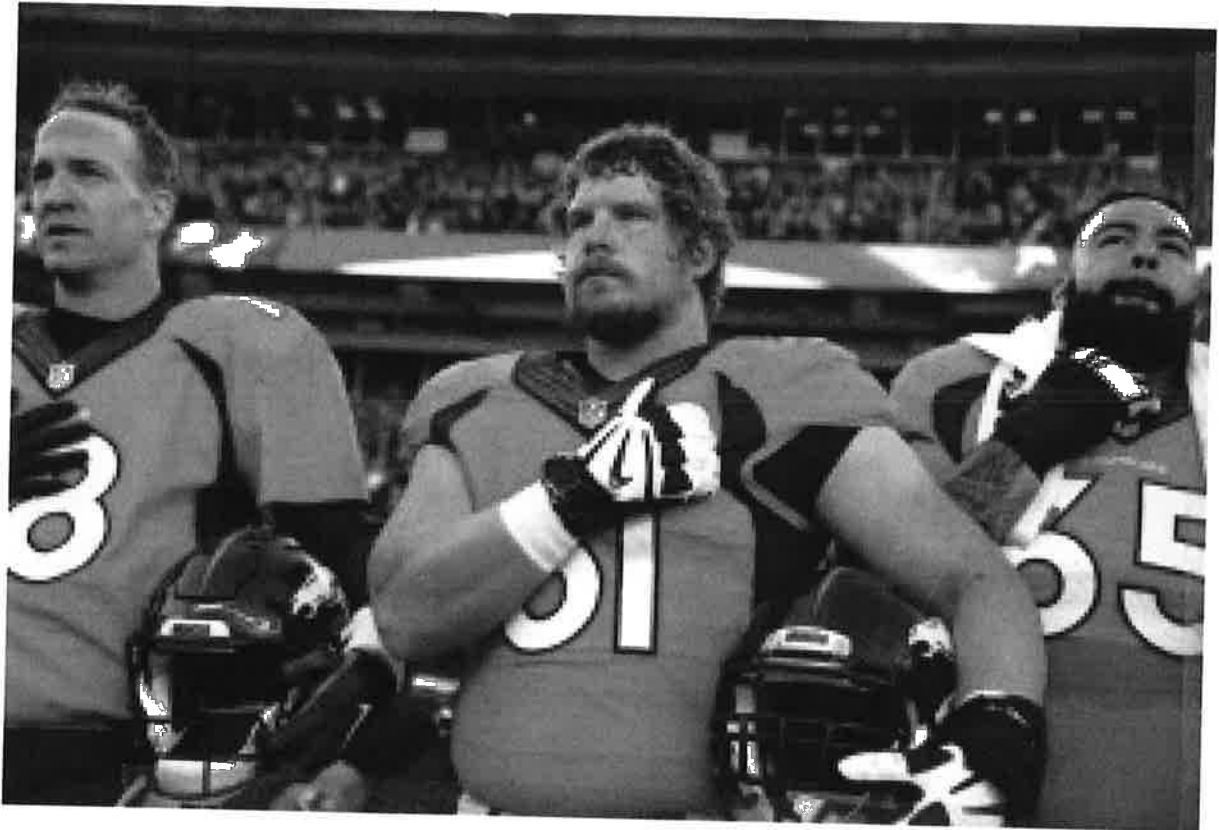
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Twyla Melton, Secretary

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Assisted by Lizzie Kukla

HCR 42  
Attachment 1



AGENDA  
**SENATE STATE AFFAIRS COMMITTEE**  
8:00 A.M.  
Room WW55  
Monday, February 22, 2016

SUBJECT	DESCRIPTION	PRESENTER
<a href="#">HCR 30</a>	STATING FINDINGS OF THE LEGISLATURE and honoring Idaho author Anthony Doerr for his award-winning work.	Representative Rubel
<a href="#">S 1212</a>	RELATING TO THE EMERGENCY COMMUNICATIONS ACT to establish the Idaho Public Safety Communications Commission by consolidating governance for emergency and public safety communications.	Brig. Gen. Brad Richy, Military Division
<a href="#">S 1299</a>	RELATING TO ELECTION CAMPAIGN CONTRIBUTIONS AND EXPENDITURES to increase election transparency by requiring all candidates to report campaign finances.	Senator Souza
<a href="#">RS24427</a>	STATING FINDS OF THE LEGISLATURE and recognizing National Women's History Month.	Senator Buckner-Webb
<a href="#">RS24546</a>	RELATING TO THE IDAHO LIMITED ARTICLE V CONVENTION ACT to provide for selection and exercise of authority for Idaho delegates. This bill does not call for a convention.	Senator McKenzie
INTRODUCTION OF PAGE:	Luke Daniel Henrie - 2nd Half of the 2nd Regular Session 63rd Idaho Legislature	Chairman McKenzie

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman McKenzie	Sen Siddoway
Vice Chairman Lodge	Sen Lakey
Sen Davis	Sen Stennett
Sen Hill	Sen Buckner-Webb
Sen Winder	

COMMITTEE SECRETARY

Twyla Melton  
Room: WW42  
Phone: 332-1326  
email: sstaf@senate.idaho.gov

MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Monday, February 22, 2016

**TIME:** 8:00 A.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Lodge, Senators Davis, Hill, Winder, Lakey, Stennett and Buckner-Webb

**ABSENT/ EXCUSED:** Senator Siddoway

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**CONVENED:** Chairman McKenzie called the Senate State Affairs Committee (Committee) to order at 8:00 a.m. with a quorum present.

**HCR 30** STATING FINDINGS OF THE LEGISLATURE honoring Idaho author Anthony Doerr for his award-winning work.

**Chairman McKenzie** introduced **Representative Rubel** who explained that the purpose of **HCR 30** was to honor author Anthony Doerr. She summarized Mr. Doerr's many accomplishments and many awards for published works, specifically the Pulitzer Prize.

**MOTION:** **Senator Davis** moved to send **HCR 30** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by a **voice vote**.

**S 1212** RELATING TO THE EMERGENCY COMMUNICATIONS ACT to establish the Idaho Public Safety Communications Commission (Commission) by consolidating governance for emergency and public safety communications.

**Chairman McKenzie** introduced **Brig Gen Brad Richy**, Idaho Bureau of Homeland Security, who explained that **S 1212** reorganizes and updates the Public Safety Communications system to allow texts and calls from cellular phones and it addresses service issues during an emergency situation. He explained the current system and Idaho Code pertaining to specific parts of the system, including recently added parts of the system that are not addressed in any Idaho Code. **Brig Gen Richy** stated that **S 1212** merges three existing organizations with 52 duplicative members into one organization with 18 members. He explained that this legislation is the result of 18 months of committee and subcommittee work; it reduces duplication, maintains local control and maintains the funding mechanism. He presented a map showing existing districts and enumerated the reorganization outcomes. He discussed associations supporting and opposing this legislation and how the Governor would select the members of the Commission (see attachment 1).

**Senator Stennett** described the benefits of this legislation for her district and asked that the letter in the packet from the City of Ketchum be disregarded because the issues had been addressed by Brig Gen Richy.

**Senator Davis** spoke about his concerns regarding the elimination of three members detailed on page 8. **Brig Gen Richy** stated that the public sector was included in all discussions of committee work and is considered a great resource.

**MOTION:**

**Senator Hill** moved to send **S 1212** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion.

**Senator Davis** applauded the work involved in the production of the legislation but stated he does not support some of the final conclusions; he has specific concerns about the private sector. He further voiced his opinion about how the committee's controlling operations were staffed with government personnel while the private sector experts were relegated to a subcommittee. He recommended that those in the "industry" be advisors to the "government."

**Senator Winder** recalled meetings he attended a few weeks before the terrorist attacks of September 11, 2001, and agreed with Senator Davis; the private sector needs to play a role. **Senator Winder** stated that **S 1212** is a positive step in the right direction.

**Senator Hill** expressed his confidence with the makeup of the Committee and their ability to call on the private sector for consultation. **Brig Gen Richy** assured the Committee that the private sector would be consulted.

The motion carried by a **voice vote**.

**S 1299**

RELATING TO ELECTIONS CAMPAIGN CONTRIBUTIONS AND EXPENDITURES to increase election transparency by requiring all candidates to report campaign finances.

**Chairman McKenzie** welcomed Senator Souza to the Committee. **Senator Souza** stated that **S 1299** would increase the reporting requirements for campaign finances at all State and local elections. She explained that the electorate deserves to know sources of support and influence for candidates and ballot measures. **Senator Souza** reviewed State requirements and said that reporting at the local level was inconsistent. She discussed concerns raised by opponents to the bill that the reporting requirement would discourage qualified, local candidates from participating in an election. She reviewed the required forms used by candidates for State office and evaluated their ease of use. She explained the additional costs involved, stating her research indicated the cost would not be significant. She expressed her hope that the Secretary of State website could be used for counties and local entities for elections with a copy kept at the county level.

**Senator Stennett** asked if there was currently a dollar threshold for reporting at city, county and lower levels. **Senator Souza** replied that there is no requirement for many elections and none for local ballot measures. **Senator Stennett** asked what the burden of campaign finance reporting would be for very small towns and inquired if a limit for reporting had ever been discussed while drafting the legislation. **Senator Souza** said that a limit had been considered, but argued that without required certification the reporting would be honor-based.

**Senator Davis** asked whether full disclosure should be considered in lieu of the exemptions contained in the definitions. **Senator Souza** clarified that the definitions were standard definitions in current election laws. **Senator Davis** warned about existing definitions and pointed out conflicts contained therein. He further questioned the stricken language referring to review of reports by the Attorney General. **Senator Souza** said that a different person would review expenditures at the local level.

**Senator Davis** questioned how far "down" the requirements to disclose campaign funds would go; for example, would irrigation districts be exempted? **Senator Souza** referenced Idaho Code § 34-1401, the Uniform District Election Law that exempts some local entities. **Senator Davis** then asked about the small city exception. **Senator Souza** replied that the small city exception would



be repealed with this legislation. Further discussion ensued concerning elections included in this legislation. **Senator Davis** questioned why an emergency clause was in place. **Senator Souza** answered that a good year to implement this legislation would be during a major election.

**Senator Lodge** asked when the technology would be available on the Secretary of State website. **Senator Souza** answered that it was a matter of budget and information technology (IT) staff. **Senator Lodge** wondered about the cost for the upgrade. **Senator Souza** indicated that the Secretary of State would bear the cost. **Senator Lakey** called attention to the section addressing city exemptions contained in Idaho Code § 50-420; this legislation should include a repeal of that section. He concurred with a requirement that political action committees report any expenditure and not just those exceeding \$500.

**Chairman McKenzie** introduced **Tim Hurst** from the Secretary of State's office.

**Senator Hill** referred to the certification on the Campaign Financial Disclosure Report and asked what the consequences would be if someone is untruthful when filing the report. **Mr. Hurst** referenced the Sunshine Law and indicated that prosecution resulting in a misdemeanor would occur. He referenced Idaho Code § 67-6625. **Senator Hill** asked if campaign finances funded by the candidate would appear on the Campaign Financial Disclosure Report. **Mr. Hurst** answered yes. Further discussion ensued concerning low-level expenditures and this legislation.

**Senator Stennett** stated that small communities don't have staff for this legislation and asked what the Secretary of State's responsibility would be in relation to small communities. **Mr. Hurst** said the responsibility would be born by the local districts and counties. The Secretary of State's office would do the training. **Senator Stennett** asked what the additional expense to counties would be and the possible expense to the Secretary of State's office. **Mr. Hurst** indicated that the expense would vary based on the counties involved and that costs to the Secretary of State's office would be dependent upon the structure required.

**Senator Davis** questioned Idaho Code § 34-1401 in relation to this legislation and the administration of elections by county officials. **Mr. Hurst** stated this section is in reference to the Sunshine Law and that this legislation would be applicable to only those covered under Idaho Code § 34-1401. Further clarification was requested by **Senator Davis**, with an interpretation of Idaho Code § 34-1401 by **Mr. Hurst**.

**Senator Hill** reviewed additional sections of Idaho Code pertaining to elections that seemed to be in violation of the proposed legislation.

**Chairman McKenzie** stated that he was in agreement with Senator Davis' interpretation about the ambiguity of those required to file reports by the proposed legislation.

#### TESTIMONY:

**Karen Echeverria**, Idaho School Boards Association, stated that she was representing school boards and the trustees who govern them. She spoke in opposition to **S 1299**. She stated trustees in all districts in Idaho are volunteer and receive no compensation for their time. **Ms. Echeverria** stated that most trustees fund their own campaigns, and this legislation might make those positions even more difficult to fill.

**Justin Ruen**, Association of Idaho Cities, spoke in opposition to **S 1299**. He stated he had worked closely with cities on elections for the past 15 years. He cited the current requirement for campaign finance reporting for cities with population over 5,000. **Mr. Ruen** enumerated the challenges this legislation

poses for those in small cities, some work part time, most are employed full time, and many have families; this legislation would put an unnecessary burden upon them.

**Dan Blocksom**, Idaho Association of Counties Policy Analyst, spoke in support of the transparency sought with **S 1299**, but opposes the bill in its current form. He stated two reasons for opposition of the bill: 1) the additional personnel costs to the counties and 2) the possibility of discouraging candidates because of the requirements. **Mr. Blocksom** suggested forms that could be filed and viewed online, and suggested a threshold amount be set to require a report.

**Senator Winder** asked Mr. Blocksom if he saw any difference between ballot measures and candidates with this legislation. **Mr. Blocksom** could not speak specifically to ballot measures.

**Stuart Davis**, Executive Director, Idaho Association of Highway Districts, spoke in opposition to **S 1299** for previously enumerated reasons.

**John Watts**, Veritas Advisors, spoke on behalf of the Idaho Library Association, which opposes **S 1299**. This legislation would deter potential candidates in small communities. **Senator Hill** asked if trustees are currently exempt from reporting and where in Idaho Code that exemption exists. **Mr. Watts** said it is assumed that library boards are exempt.

**Senator Souza** thanked the Committee and those that testified. She recognized that change is difficult and asked if trust and belief in our system of elections would be worth the change. She summarized prior testimony, agreeing that the election packet could be considered intimidating and suggested that a "quick-start" page be included at the beginning of the election packet with concise directions for those reporting election contributions. She stated that any additional staffing and cost would be worth it if it increased voter confidence in the election system.

**Senator Winder** commented that ballot measures are sometimes bitterly opposed when voters do not know where the money comes from. He stated that if the electorate knew the origin of the funding, there might be a positive impact upon public trust.

**MOTION:**

**Senator Winder** moved to send **S 1299** to the amending order. **Senator Lakey** seconded the motion.

**Senator Davis** indicated he originally intended on supporting the legislation. However, at this time he wouldn't support the motion because the legislation was in need of further public consideration beyond the amending order. He reviewed each section of the legislation and cited problems.

**Senator Lakey** recalled past local elections where large sums of money were used in an attempt to influence the outcome; transparency would have been helpful. He further stated how smaller cities handle large budget amounts and therefore should have transparency in elections.

**Senator Hill** complimented Senator Souza for championing accountability and pointed out statutes that are in conflict with the bill. He suggested a dollar amount be required for reporting instead of population numbers.

**Senator Stennett** praised Senator Souza and spoke about giving even the smallest elections guidance about reporting but expressed reluctance to support the legislation because of language conflicts.

**Senator Lodge** thanked Senator Souza for her attention to transparency and expressed concerns about the definition of "expenditure." She stated there needed to be further work to clarify election laws, making it more inviting for those seeking candidacy in smaller districts. She expressed her reluctance to support **S 1299**.

**Senator Winder** reiterated his support of this legislation and suggested a radiator cap approach to make the changes discussed.

The motion failed by a **voice vote**.

**RS 24427**

STATING FINDINGS OF THE LEGISLATURE and recognizing National Women's History Month.

**Senator Buckner-Webb** introduced **RS 24427** as a resolution that would establish March 2016 as Women's History Month in Idaho, recognizing the profound economic, cultural and social contributions of women past and present. She recounted the history of Women's History Month in the United States and reviewed the purpose of this legislation (see attachment 2).

**MOTION:**

**Senator Winder** moved to send **RS 24427** to print. **Senator Hill** seconded the motion. The motion carried by a **voice vote**.

**RS 24546**

RELATING TO THE IDAHO LIMITED ARTICLE V CONVENTION ACT to provide for selection and exercise of authority for Idaho delegates. This bill does not call for a convention.

**MOTION:**

**Senator Davis** moved to send **RS 24546** to print. **Senator Lakey** seconded the motion.

**Chairman McKenzie** announced that there will be further work to see if the Committee will or will not support the bill if it comes back to this Committee.

The motion carried by a **voice vote**.

**INTRODUCTION  
OF PAGE:**

**Chairman McKenzie** announced that the Committee has a new page and invited Luke Henrie to step to the podium. **Chairman McKenzie** pointed out that Mr. Henrie is from Nampa and Chairman McKenzie is his sponsoring Senator. Mr. Henrie graduated from Boys State, is an Eagle Scout and attends city council meetings. He read an excerpt from Mr. Henrie's application letter. **Chairman McKenzie** asked him to tell the Committee about school and what his plans are after finishing the Page Program.

**Mr. Henrie** responded that after graduating from high school and he plans to attend the University of Idaho to study political science before attending law school. Observing the Senate is helpful and he is learning a lot. His Eagle Scout project was the Veteran's History Project. He interviewed veterans, and took their accounts of what they did while serving in the military; the result of his efforts is now documented in the Library of Congress and open to the public for scholarly use.

**ADJOURNED:**

There being no further business, Chairman McKenzie adjourned the meeting at 10:11 a.m.

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Senator McKenzie, Chair

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Twyla Melton, Secretary

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Assisted by Marian Smith



# S 1212

## Organizing Idaho's Public Safety Communications Governance





## PUBLIC SAFETY ANSWERING POINTS



Emergency  
Communications  
Commission (ECC)

Title 31 Chapter  
48

Funded through  
agency funds and  
ECC

1 Existing FTE

## DISPATCH



No Current  
Governance

-

Funded through  
agency funds

-

## INTEROPERABLE COMMUNICATIONS



Statewide Interoperability  
Executive Committee (SIEC)

Title 46 Chapter 12

Funded through agency  
funds

1 existing FTE

## MOBILE BROADBAND DATA



Idaho FirstNet  
Planning Committee

-

Build-out funded by  
FirstNet, operations  
through agency funds

3 Existing FTEs



## S1212 Public Safety Communications Commission



Idaho Emergency  
Communications  
Commission (IECC): 911  
emergency telephone and  
dispatch (13)



FirstNet Planning  
Committee (FPC): mobile  
broadband emergency  
data (17)



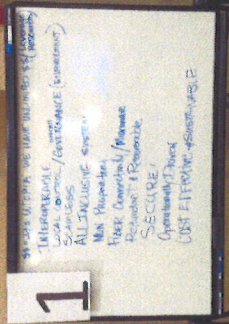
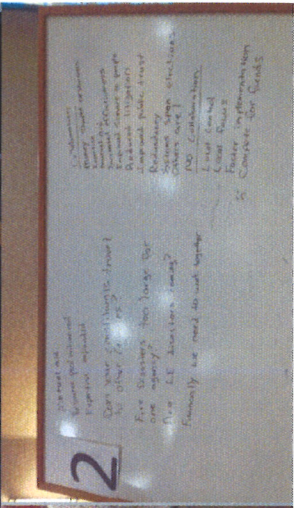
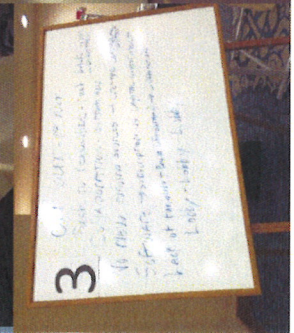
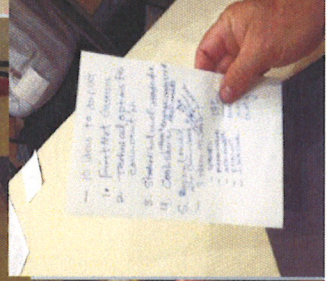
State Interoperability Executive  
Council: (SIEC) radio  
communications and  
interoperability (22)

**Merge three existing organizations with  
52 duplicative members into one with 18**



# Statewide Summits 2014 and 2015

## 18 months of committee and subcommittee work





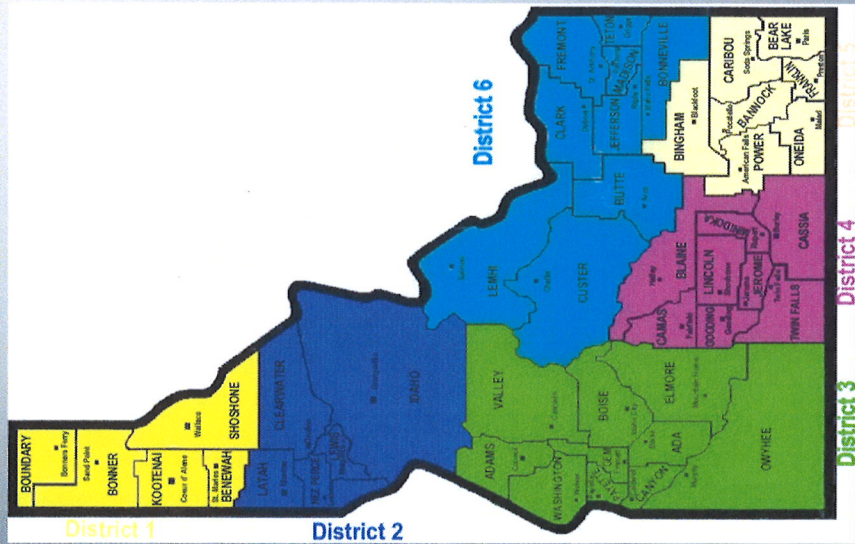
# Repeated Stakeholder Suggestions

- Reduce duplication
- Improve governance of public safety communications
- Consider consolidating the ECC and SIEC
- Maintain local control
- Maintain District Interoperability Governance Boards (DIGBs)
- Don't touch the funding mechanism
- Create a Core Committee to draft legislation for improved governance



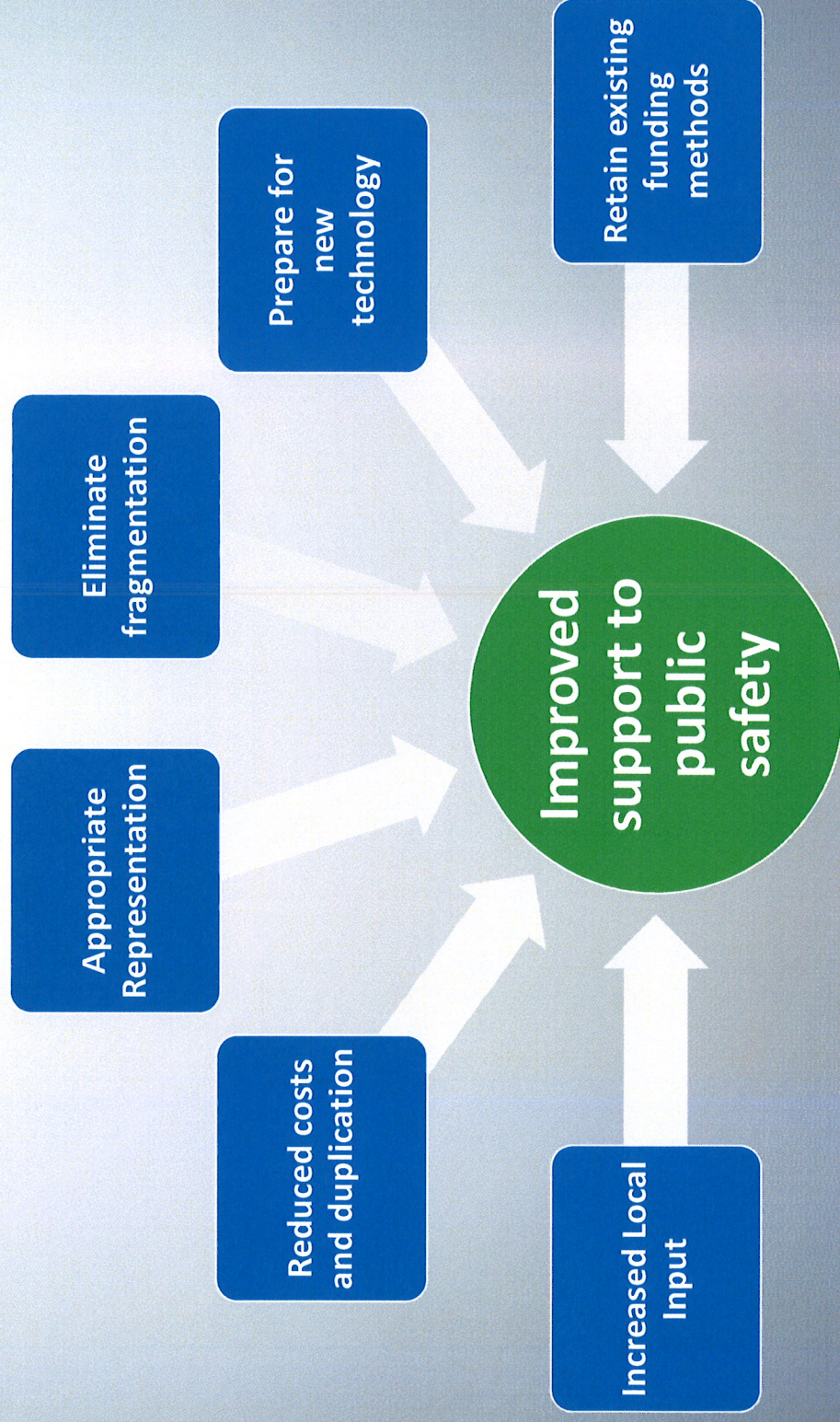
# District Interoperability Governance Boards (DIGBs)

- Conducts tactical and operational regional planning
- Comprised of jurisdictions within districts
- Recognized as best practice from SIEC
- Ensures local input to statewide discussions





# Reorganization outcomes





# At the table

- Association of Idaho Cities
- Idaho Association of Counties
- Idaho Sheriffs' Association
- Idaho Chiefs of Police Association
- Idaho Fire Chiefs Association
- Idaho Bureau of Homeland Security
- Idaho State Police
- Idaho Technology Authority
- Idaho State Emergency Communications Center
- Idaho Legislature
- District Interoperable Governance Board (DIGB) representatives
- Idaho Tribal Representative





# Supporting Stakeholders

- Association of Idaho Counties
- Idaho Sheriffs' Association
- Idaho Fire Chiefs Association
- Emergency Communications Commission
- Idaho State Police
- Idaho State Communications Center
- Idaho Military Division
- Executive Office of Idaho Governor Otter
- Idaho Council on Indian Affairs



**Questions?**

## About Women's History Month

In the United States, Women's History Month had its origins as a national celebration in 1981 when Congress passed legislation which authorized and requested the president to proclaim the week beginning March 7, 1981 as "Women's History Week."

Throughout the next five years, Congress continued to pass joint resolutions designating a week in March as "Women's History Week." In 1987 after being petitioned by the National Women's History Project, Congress passed legislation which designated the month of March 1987 as "Women's History Month."

- President Reagan then issued a proclamation designating March 1987 as "Women's History Month" and calling upon all Americans to mark the month with observances to honor the achievements of American women and their courageous action to benefit families, communities and the country.
- Between 1988 and 1994, Congress passed additional resolutions authorizing the President to proclaim March of each year as Women's History Month.
- Since 1995, Presidents Clinton, Bush and Obama have issued a series of annual proclamations designating the month of March as "Women's History Month."

These proclamations celebrate the contributions women have made to the United States and recognize the specific achievements women have made over the course of American history in a variety of fields.

Women's History Month honors and celebrates the struggles and achievements of American women throughout the history of the United States. American women have struggled throughout our history to gain rights not simply for themselves but for many under represented and disenfranchised groups in America.



While this SCR acknowledges the historical significance of Women's History Month nationally and internationally, it specifically honors the proud legacy of the women of Idaho. Notably, Idaho was the 4<sup>th</sup> state to extend to women the right to vote.

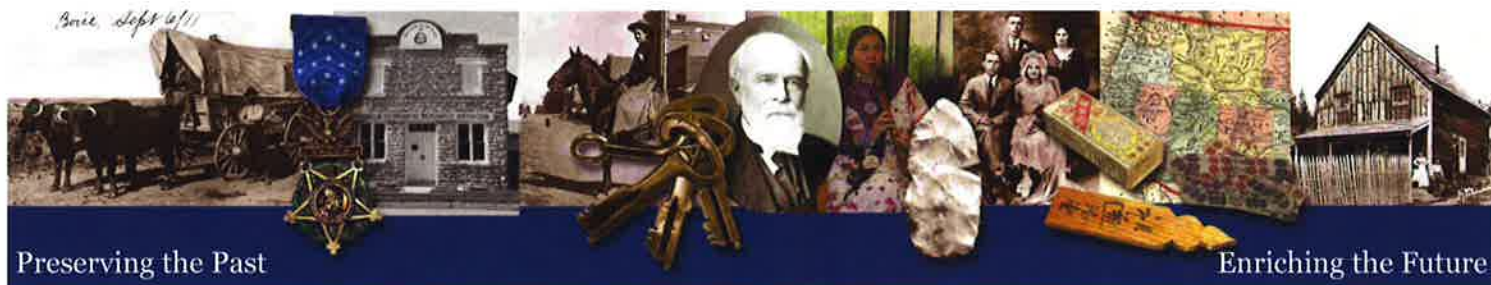
Women constitute 52% of Idaho's population and play a critical role in every area of endeavor in our state. Women continue to contribute tirelessly to all that is Idaho though their contributions have been largely overlooked in the history books.

Women have proven their talents, skills, abilities and leadership serving their families, in elective office, on boards and commissions, as well as in the private and public sectors. The state of Idaho and her citizens are greatly served when women participate in the public arena and in leadership positions to the fullest extent of their capabilities.

This legislation serves not only to support and recognize the Women of Idaho but also to encourage all Idahoans to learn more about the roles Idaho women have played in the history of our state and nation. And further to encourage and support the on-going participation of women, from all walks of life.

To that end,

- The Idaho Historical Society has provided the hand out before you.
- And thanks to the Idaho Historical Society, Director Janet Gallimore and the Department of Administration we will there will be a Women's History Month Exhibit
- February 27 – April 3, 2016 (1 month)
- **Location:** Capitol building, 4th floor, Statuary Hall



## Women in Idaho History

**1805:** Idaho native Sacajawea returns home to the Salmon area with Lewis and Clark. Later that year a Nez Perce woman, Watkuweis, is credited by many with saving the expedition.

**1872:** Polly Bemis moves to the Salmon River. The Northwest's most famous Chinese woman is the subject of four books and the movie, "Thousand Pieces of Gold."

**1878:** Elvina Moulton becomes the only African American charter member of the Boise Presbyterian Church.

**1883:** May Arkwright moves to the Silver Valley and marries Levi Hutton in 1887. They purchase a stake in the Hercules Mine, and strike it rich. The Huttons engage in many social causes, and May, often teaming with Abigail Scott Duniway, becomes one of the leading suffragettes in Idaho and the North west.



Polly Bemis



Elvina Moulton

**1884:** Mary Hallock Foote moves to Boise. An accomplished novelist and artist, her life and writings serve as the basis for the Pulitzer Prize winning book by Wallace Stegner, *Angle of Repose*.

**1891:** Emma Edwards of Boise designs the state seal, the first, and only state seal designed by a woman.

**1896:** The Idaho legislature grants women the right to vote in state and local elections, the fourth state to grant suffrage.

**1898:** Clara L. Campbell, Boise, Harriett F. Noble, Idaho City, and Mary A. Wright, Rathdrum, become the first women to serve in the Idaho legislature.

**1899:** Jenny Hughes receives a Bachelor Science degree, becoming the first African American graduate of the University of Idaho.

**1902:** Mable Gray becomes Idaho's first official fire lookout attendant at the Bertha Hill lookout northeast of Orofino; her lookout consists of a perch on a tall snag.

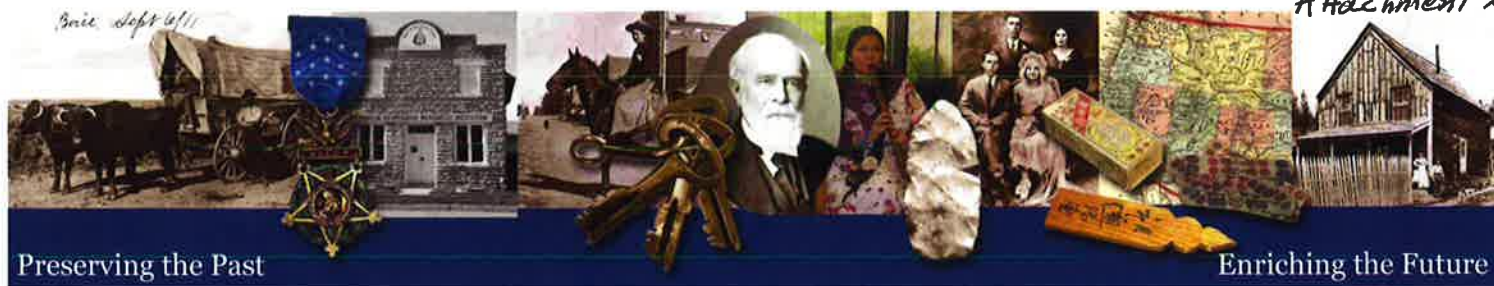
**1921:** Nell Shipman films and produces "The Girl from God's Country" from her studio on Priest Lake, the first movie made in Idaho.

**1928:** Margaret Cobb Ailshie becomes publisher of the *Idaho Statesman* and continues in that position until 1959.



Nell Shipman





- 1931:** Sister Alfreda Elsensohn founds the Historical Museum at St. Gertrude Monastery, one of Idaho's oldest museums. The state's highest award for outstanding museum service is named for her.
- 1932:** Myrtle Enking of Gooding is elected State Treasurer, the first in a line of 5 women to hold that post consecutively until 1959; indeed, the string continued until 1999, interrupted by only one man.
- 1936:** Moscow native Carol Rylie Brink wins the nation's most prestigious literary award for children's literature, the Newbery Award, for *Caddie Woodlawn*.
- 1948:** Gretchen Fraser of Sun Valley wins gold and silver Olympic medals in skiing. She becomes the first of several Idaho women Olympic champions, including Andrea Lloyd, Picabo Street, Stacy Dragilla, and Kristin Armstrong.



Sister Alfreda Elsensohn



Kristin Armstrong

- 1952:** Gracie Bowers Pfost is elected as the first Idaho woman to serve in The U.S. House of Representatives; she serves five terms.

- 1964:** Dorthy Johnson of Pocatello becomes the first African American to gain the title "Miss Idaho, ISA." Later that summer, the same year Congress passed the Civil Rights Act, she becomes the first African American to become a semi-finalist for the Miss USA Pageant.



Gracie Bowers Pfost



Amy Trice

- 1974:** Amy Trice leads the Kootenai Tribe in declaring war on the U.S. No shots are fired, but the Tribe gains a reservation, clinic, and housing.

- 1989:** Kathryn Albertson Park is dedicated, the third in a chain of parks, Including Julia Davis and Ann Morrison, named for Boise women.



Barbara Morgan

- 1992:** Linda Copple Trout becomes the first woman appointed to the Idaho Supreme Court.

- 2007:** Barbara Morgan flies on the Space Shuttle to the International Space Station. A former teacher at McCall-Donnelly Elementary, she first goes to NASA in the Teacher in Space program, and later becomes a full-time astronaut.

- 2008:** Sarah Palin, born in Sandpoint and a North Idaho College and University of Idaho graduate, runs on the Republican ticket for Vice President.



Cherie Buckner-Webb

- 2010:** Cherie Buckner-Webb of Boise wins election to the Idaho House of Representatives, becoming Idaho's first African American woman legislator.

- 2014:** Kaitlyn Farrington of Hailey, Idaho wins the gold medal in the women's half-pipe competition at the Sochi Olympics. The first women rider to perform a backside 900 (rider spins 900 degrees backside in the air).

**AMENDED AGENDA #2**  
**SENATE STATE AFFAIRS COMMITTEE**  
**8:00 A.M.**  
**Room WW55**  
**Wednesday, February 24, 2016**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#"><u>RS24569</u></a>	STATING FINDINGS OF THE LEGISLATURE to recognize the contributions and accomplishments of Hecla Mining Company and its employees on the company's 125th anniversary.	Senator Nonini
<a href="#"><u>RS24558</u></a>	RELATING TO ALCOHOL BEVERAGE CATERING PERMITS to revise provisions regarding alcohol beverage catering permits.	Seth Grigg, Association of Idaho Cities
<a href="#"><u>RS24573</u></a>	RELATING TO INVASIVE SPECIES to clarify the role of law enforcement in issuing complaints/citations relating to invasive species.	Senator Harris
<a href="#"><u>RS24505</u></a>	RELATING TO ALCOHOL BEVERAGE CATERING PERMITS to allow a winery hosting an event to have a catering permit that will cover other wineries demonstrating their wines on the host's premises.	Roger Batt, Idaho Grape Growers and Wine Producers
<a href="#"><u>RS24033C1</u></a>	RELATING TO BINGO AND RAFFLES to provide revisions to multiple statutes to clarify charitable gaming laws and requirements.	Angela Vitek, Charitable Gaming Coordinator
<a href="#"><u>RS24593</u></a>	STATING FINDINGS OF THE LEGISLATURE and endorsing the need for a veterans' cemetery located in Eastern Idaho.	Senator Mortimer
<a href="#"><u>S 1274</u></a>	RELATING TO ABSENTEE VOTING to revise a certain deadlines.	Phil McGrane, Ada County Chief Deputy Clerk
<a href="#"><u>S 1275</u></a>	RELATING TO ABSENTEE VOTING to add counties utilizing the polling location based tabulation system.	Phil McGrane

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman McKenzie	Sen Siddoway
Vice Chairman Lodge	Sen Lakey
Sen Davis	Sen Stennett
Sen Hill	Sen Buckner-Webb
Sen Winder	

COMMITTEE SECRETARY

Twyla Melton  
Room: WW42  
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MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Wednesday, February 24, 2016

**TIME:** 8:00 A.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Lodge, Senators Davis, Hill, Winder, Lakey, Stennett and Buckner-Webb

**ABSENT/ EXCUSED:** Senator Siddoway

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**CONVENED:** **Chairman McKenzie** called the Senate State Affairs Committee (Committee) to order at 8:06 a.m. with a quorum present.

**RS 24569** STATING FINDINGS OF THE LEGISLATURE to recognize the contributions and accomplishments of Hecla Mining Company (Company) and its employees on the Company's 125th anniversary.

**Senator Nonini**, District 3, described **RS 24569** as a Senate Concurrent Resolution honoring Hecla Mining Company on its 125th anniversary. Senator Crapo originated a Congressional Resolution and the Governor initiated a proclamation; the Legislature should also acknowledge this anniversary. **Senator Nonini** told about his childhood experience some 50 years ago in Wallace, Idaho, as it related to Hecla Mining Company, at that time known as the Lucky Friday Mine. Hecla Mining Company is the oldest company in Idaho that is publicly traded on the New York Stock Exchange. He said the Legislature should recognize Hecla Mining Company.

**MOTION:** **Senator Winder** moved to send **RS 24569** to print. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

**Vice Chairman Lodge** welcomed Mayor Darin Taylor and the Mayor's Youth Advisory Council from Middleton, Idaho.

**RS 24558** RELATING TO ALCOHOL BEVERAGE CATERING PERMITS to revise provisions regarding alcohol beverage catering permits.

**Seth Grigg**, Executive Director, Association of Idaho Cities (Association), explained that this is a concern related to alcohol catering permits issued at the local level. Cities and counties are authorized by Idaho law to issue a temporary catering permit where alcohol can be served. The permits are based on the type of beer and/or wine license held by the permit applicant. Current Idaho law limits the timeframe on a permit to three days. There are many special events that last more than three days. **Mr. Grigg** provided an example explaining what happens when an event runs more than three days. The intent of **RS 24558** is to provide flexibility at the local level when issuing permits for events that extend past the three-day limit. Section 1 - Definitions, creates a definition for longer-running events. Section 2 extends the number of days that a permit is authorized from three days to five days, and then the local jurisdiction, at its discretion, can extend that permit one time for up to five days. That would cover a weekend-to-weekend event. Recommendations by the Idaho Licensed Beverage Association were incorporated into the draft as well as language recommended by Idaho Alcohol Beverage Control (ABC).

- MOTION:** **Senator Davis** moved to send **RS 24558** to print. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.
- RS 24573** RELATING TO INVASIVE SPECIES to clarify the role of law enforcement in issuing complaints/citations relating to invasive species.
- Chairman McKenzie** stated, for the record, that he took a personal interest in this bill and worked on it with Senator Harris. He asked Senator Harris to bring the RS to the Committee for a print hearing assuming it would then go to a germane committee.
- MOTION:** **Senator Davis** moved to send **RS 24573** to print. **Senator Winder** seconded the motion. The motion carried by **voice vote**.
- RS 24505** RELATING TO ALCOHOL BEVERAGE CATERING PERMITS to allow a winery hosting an event to have a catering permit that will cover other wineries demonstrating their wines on the host's premises.
- Roger Batt**, representing the Idaho Grape Growers and Wine Producers Commission, specified that **RS 24505** would allow two or more wineries to use a winery's licensed premises to host an event where those wineries may serve and sell their respective wines under an alcohol beverage catering permit. **Mr. Batt** outlined what was contained in current law. This RS will allow multiple wineries to host events at a shared licensed premise. Industry representatives have met with ABC and have their support.
- Chairman McKenzie** noted that a technical correction would be made on the Statement of Purpose.
- MOTION:** **Senator Stennett** moved to send **RS 24505** to print. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.
- RS 24033C1** RELATING TO BINGO AND RAFFLES to provide revisions to multiple statutes to clarify charitable gaming laws and requirements.
- Angela Vitek**, Charitable Gaming Coordinator, Idaho Lottery Commission, explained that **RS 24033C1** incorporates the punctuation and changes suggested by Senator Davis on page 2 line 16 of the RS.
- MOTION:** **Senator Davis** moved to send **RS 24033C1** to print. **Senator Winder** seconded the motion. The motion carried by **voice vote**.
- RS 24593** **Chairman McKenzie** noted that this RS is to clarify that there should be a second veterans' cemetery located in Eastern Idaho.
- MOTION:** **Senator Davis** moved to send **RS 24593** to print. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.
- S 1274** RELATING TO ABSENTEE VOTING to revise certain deadlines.
- Phil McGrane**, Ada County Chief Deputy Clerk, also representing Idaho Association of Counties and Idaho Association of County Recorders and Clerks, explained that **S 1274** is the number one priority for the Idaho Association of Counties in terms of their legislative package. The bill changes the deadline to request an absentee ballot from the sixth day preceding the election to the eleventh day preceding the election. **Mr. McGrane** reviewed the process for requesting an absentee ballot. Changes in delivery by the postal service do not allow sufficient time for mailing a ballot to a voter and for the voter to return it by election day.
- The United State Postal Service used to give priority to absentee ballots, but that practice is slowing down. The closure of the Pocatello distribution center is one of the reasons; mail must now go to Salt Lake City and then back to Idaho. The Ada County Clerk's office initiated this legislation. During the last city elections, there was a large delay in the returns. It took about seven days to get the ballots back. At the seven

day point, 24 percent of the absentee ballots that had been mailed out had been returned; it should have been about 50 percent at that point in time. Discussions with the Marketing Director at the Salt Lake City distribution center resulted in the Director's recommendation that a postal mark be used as the date that qualified the absentee ballot. He said there are other complications related to that type of solution. This bill provides ample time for the ballot to go from a county clerk's office to the voter and gives the voter opportunity for a timely return.

**Senator Hill** asked about the difference between an "application for a mail-in absentee ballot" and an "application for an in-person absentee ballot." He described what happened when he went to vote using an absentee ballot. **Mr. McGrane** responded that the process is changing with the advent of early voting, but the in-person ballot Senator Hill received could also be mailed in.

**Senator Davis** asked why, on page 2, the six was changed to an eleven rather than inserting "on or before?" **Mr. McGrane** explained that the line is in reference to when the county clerk's office receives the application, not when the application is processed and the ballot is mailed out. **Senator Davis** quoted page 2, line 18-20, "the application for a mail-in absentee ballot shall be received by the clerk not later than 5:00 p.m. on the sixth day before the election." The focus is the application, is that correct? **Mr. McGrane** agreed. **Senator Davis** indicated that the eleventh day gives enough time to mark and return the ballot. Is that correct? **Mr. McGrane**, said yes. **Senator Davis** asked Mr. McGrane if, in his experience, is eleven the right number. **Mr. McGrane** said that the clerk's offices are balancing priorities with respect to absentee ballot requests. They referred to various local tracking systems to estimate mailing times. One delivery and return in seven days was possible in some areas, but could be a problem in remote areas. Eleven days was determined to be a plausible time-frame.

**Senator Davis** observed that there are people that regularly vote absentee. Do you think changing from six days to eleven will disenfranchise some individuals? **Mr. McGrane** answered that the primary concern is not to create a great gap in time between requesting the ballot and election day. If a voter cannot get an absentee ballot sent in the allotted time, there is still in-person absentee or early voting.

**Senator Hill** asked if there was a deadline when the ballot had to be received by the county clerk? **Mr. McGrane** responded that they were due when the polls closed; every ballot must be in hand; a special run is made to the post office to pick up any remaining mail. **Senator Hill** restated for confirmation that if the postal service does not get the ballot back in time, it won't be counted. Is this change being made for the convenience of not wasting time and postage to mail out an absentee ballot when there is less chance for it to make it back in time? **Mr. McGrane** answered that it is more a concern of disenfranchisement. A voter that requests an absentee ballot on the Tuesday or Wednesday just prior to the election believes that they will have the opportunity to vote. Current information says that scenario is giving those voters a false sense of security that they voted and it was counted. Considering the amount of mailing time it takes, it is unlikely those votes will count. The cost is insignificant. **Senator Hill** stated his concern with the eleven days; it is a long time. Existing language in statute says "it shall be received." **Mr. McGrane** strongly advocated against any discretion of that nature. When there is disagreement in counting votes, clerk discretion is a dangerous thing. **Senator Hill** agreed that there should not be discretion; you are giving plenty of time with the eleven days.

**Chairman McKenzie** commented about the United States Postal Service, saying the organization is less responsive and user friendly than it has been in the past. He observed that the United Kingdom (UK) just finished the final sell-off of the Royal Mail last year. A Forbes article from last year states that the United States Postal Service can learn from the privatization of UK's Royal Mail. Experts are postulating

that the window for sustainable, comprehensive postal reform in the United States is rapidly closing, especially in the face of the lucrative, privatized parcel service. This is not a criticism of the bill; in his opinion, it is a change being forced by the United States Postal Service.

**Senator Stennett** agreed. Post offices in her area have to send mail to Salt Lake before returning it to Idaho for delivery, which doesn't seem efficient. Deadlines are much earlier, creating difficulties for commerce.

**MOTION:** **Senator Stennett** moved to send **S 1274** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

**S 1275** RELATING TO ABSENTEE VOTING to add counties utilizing the polling location based tabulation system (system).

**Mr. McGrane** explained that this legislation is coming from Ada County Elections. The revisions clarify that the new election system can be used in the early voting process. This new technology involves a typical optical, scanned, ballot where a square or oval is marked similar to what has been in place since the 1970s. This technology is used in the vast majority of the State. The major difference between Ada County's new system and most of the other systems throughout the State is that Ada County is moving from a central-count county, which most other counties are, to the new system. This is a monumental shift. The ballots will not be counted centrally. The results will be tabulated as the voter stands in front of the ballot box and deposits their ballot. There is a scanner attached to the top of the ballot box. The paper ballots are scanned in and the results are tabulated. The new system doesn't impact paper ballot communities.

**Senator Davis** asked, when he shows up to vote, is he standing in front of the machine with his ballot in hand ready to submit his vote? **Mr. McGrane** answered that it is still the same experience as voters have in Bonneville County right now. The change comes when the ballot is deposited. The ballot is inserted into the scanner and it will be tabulated and deposited in the ballot box. If a voter has made an error and the ballot is not accepted, the ballot is kicked out of the scanner and the voter has the option to redeposit it or to get a new ballot. The paper ballot is still retained as the official record.

**Senator Davis** asked about the number of devices for each polling location. **Mr. McGrane** said there would be one device per precinct. The biggest delay in the voting process is where the voter fills out the ballot. Each voter will be given a secrecy sleeve so the ballot is kept covered. When it is deposited the voter is standing alone and there are blinders on the sides of the scanner so someone else cannot read the ballot. **Senator Davis** stated his concern about the display screen being vertical instead of horizontal and the opportunity for someone else to read the voters ballot. **Senator Davis** asked for confidence that the privacy of the ballot would be protected. **Mr. McGrane** demonstrated how the polling machine would work. The markings on the ballot were not displayed on the screen; only notification that the ballot was deposited successfully is displayed. Secrecy is not harmed.

**Senator Lakey** asked for clarification about what information was appearing on the screen. If the ballot is kicked back out, what options do they have to correct it? **Mr. McGrane** responded that the voter can either resubmit the same ballot and that vote would not be counted, or the voter could get a new ballot and vote again.

**Senator Lodge** asked if there could be distance between the waiting line and the ballot box and scanner. **Mr. McGrane** said yes. However, typically, lines do not form at the ballot box. Lines form at the poll-book and ballots are not issued until there is a voting booth available. There is almost never a line at the ballot box.

**MOTION:**        **Senator Lodge** moved to send **S 1275** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

**ADJOURNED:** There being no further business, **Chairman McKenzie** adjourned the meeting at 8:52 a.m.

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Senator McKenzie  
Chair

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Twyla Melton  
Secretary

AGENDA  
**SENATE STATE AFFAIRS COMMITTEE**  
**8:00 A.M.**  
**Room WW55**  
**Friday, February 26, 2016**

SUBJECT	DESCRIPTION	PRESENTER
GUBERNATORIAL APPOINTMENT:	The Gubernatorial Appointment of Michael "Mike" Mark Mooney to the Idaho Energy Resources Authority.	
<a href="#">S 1342</a>	RELATING TO PUBLIC SCHOOL INSTRUCTION to provide for when the Bible can be used for reference. No one is required to use religious texts.	Senator Nuxoll
<a href="#">S 1272</a>	RELATING TO THE SCHOOL DISTRICT BOND CREDIT ENHANCEMENT PROGRAM to raise the aggregate guarantee limit for school district bonds.	Larry Johnson, Endowment Fund Investment Board
<a href="#">S 1269</a>	RELATING TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY to provide that certain moneys shall be held in the Environmental Protection Trust Fund.	Orville Green, Department of Environmental Quality
<a href="#">RS24588</a>	A JOINT MEMORIAL to ask the United States Congress to restructure the United States Postal Service in a way to provide acceptable delivery times.	Dan Blocksom, Idaho Association of Counties
MINUTES APPROVAL:	February 8, 2016	Senators Siddoway and Lakey
	February 10, 2016	Senators Stennett and Winder
	February 15, 2016	Senators Hill and Lodge

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman McKenzie	Sen Siddoway
Vice Chairman Lodge	Sen Lakey
Sen Davis	Sen Stennett
Sen Hill	Sen Buckner-Webb
Sen Winder	

COMMITTEE SECRETARY

Twyla Melton  
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MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Friday, February 26, 2016  
**TIME:** 8:00 A.M.  
**PLACE:** Room WW55  
**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Lodge, Senators Davis, Hill, Winder, Siddoway, Lakey, Stennett and Buckner-Webb  
**ABSENT/EXCUSED:** None  
**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.  
**CONVENED:** **Chairman McKenzie** called the meeting of the Senate State Affairs Committee (Committee) to order at 8:00 a.m. with a quorum present.  
**GUBERNATORIAL APPOINTMENT:** The Gubernatorial appointment of Michael "Mike" Mark Mooney to the Idaho Energy Resources Authority (Authority).

**Mr. Mooney** provided a brief history of his professional experience, highlighting his 42 years in the banking industry and membership on several regional boards around the State.

**Senator Winder** thanked Mr. Mooney for coming before the Committee and asked about the work of the Authority and how his background will complement this work. **Mr. Mooney** explained that the Authority is a conduit to help fund rural transmission and generation projects, with specific emphasis on expanding and improving transmission lines.

**Chairman McKenzie** thanked Mr. Mooney and indicated that the confirmation vote will take place at the next Committee meeting.

**S 1342** RELATING TO PUBLIC SCHOOL INSTRUCTION to provide for when the Bible can be used for reference.

**Senator Nuxoll**, District 7, presented **S 1342**, which allows the Bible to be used as a reference in public schools by codifying a practice already allowable under current law. She pointed out that this legislation is intended to alleviate any fear or confusion for teachers, students or parents who wish to use the Bible for reference purposes. **Senator Nuxoll** specified that the use of religious texts is not required nor is the teaching of doctrine permitted. She commented on the history of the Bible as it pertains to Western civilization and world history. **Senator Nuxoll** then referenced legal opinions that support the constitutionality of this legislation and listed other states that have enacted similar laws (see attachment 1).

**Senator Stennett** noted that there is no reference to religion in the United States Constitution and, when taking into consideration the intent of our Founding Fathers, questioned why there is a need for this legislation. **Senator Nuxoll** responded the Founding Fathers believed the Bible was not sectarian nor denominational but a universal book. **Senator Stennett** commented that in our nation's history, other religious texts have been utilized as teaching tools, but such function was never codified.

**Senator Buckner-Webb** questioned why other religious texts, such as the Quran or Torah, are not included in this discussion, and expressed concern about focusing solely on the Bible. **Senator Nuxoll** replied that other faiths typically utilize the Bible, which is considered a universal book. **Senator Buckner-Webb** noted that other religious texts may be just as significant and that placing a higher value relative to other texts is concerning. **Senator Nuxoll** stated that the legislation does not require the use of the Bible as a teaching tool.

**TESTIMONY:**

**Representative Paul Shepherd**, District 7, read a statement from Evalyn Bennett (see attachment 2) in support of **S 1342**. Ms. Bennett noted in her prepared statement that when used objectively by teachers as a reference tool, the Bible complements various areas of study such as mathematics, literature and government.

**Bobbie Post** spoke in support of **S 1342**, as a private citizen and school teacher at The Ambrose School. She stated that the Bible provides a framework for studying literature, and a well-rounded education should incorporate a variety of religious texts. **Senator Stennett** asked if her classroom demographics include only Christian students, to which **Ms. Post** answered that most students are Christian and some are agnostic. She also stated that incorporating a variety of religious texts as reference tools would benefit her students. In response to questions from Senator Hill, **Ms. Post** stated that during her teaching career, the ability to reference religious texts has always been unclear in the public school system and that teachers often fear referencing religion in the current framework; the proposed legislation will provide clarity for educators on this issue.

**Dr. Steven Crane**, Minister, Eagle Christian Church, spoke in support of **S 1342**. **Dr. Crane** emphasized that the Bible should be considered an inter-faith text; many other religions acknowledge and reference the Bible in their respective teachings. He suggested that the Bible permeates all aspects of life and is the most widely read and translated book in history. **Senator Stennett** asked why, if the Bible is so pervasive and accessible, does its reference and use in schools need to be outlined in statute. **Dr. Crane** responded that this legislation provides clarity for educators (see attachment 3).

**Christ Troupis**, Attorney, Troupis Law Office, spoke in support of **S 1342**. **Mr. Troupis** explained that he analyzed similar legislation in ten other states and any resulting litigation; he reported no instances of these statutes being challenged on constitutional grounds. **Mr. Troupis** stated that because Idaho has a constitutional prohibition pertaining to sectarian texts in the classroom, this legislation is necessary to provide legal clarity for educators. He also suggested that the Bible is distinct from other religious texts because it is widely considered non-sectarian. **Senator Stennett** asked why the Founding Fathers did not reference the Bible in the U.S. Constitution. **Mr. Troupis** remarked that because the Bible was implicit throughout American life at the time, there was no need to include it in the U.S. Constitution. **Senator Stennett** then asked if the term "Creator" was chosen to include many different faiths, to which **Mr. Troupis** replied there was no preference for a denomination, further noting that there was a concern at that time that no single denomination gain ascendancy over another.

**Vice Chairman Lodge** asked how many versions of the Bible exist, to which **Mr. Troupis** explained that there are many different versions, but the issue in question is not whether to read the Bible verbatim in the classroom, but to reference excerpts that have universal application. **Vice Chairman Lodge** pointed out that

because many versions exist, inconsistencies may arise regarding what students are being taught.

**Senator Davis** inquired if other states have similar constitutional language, to which **Mr. Troupis** replied that during his research, he did not find any state with similar language. **Senator Davis** commented on the history of Idaho's Constitutional Convention, highlighting the specific motion and respective debate pertaining to the use of the Bible in public schools for non-religious purposes; he also expressed disappointment in the nature of that debate. **Senator Davis** questioned whether examination of this issue should include contextual consideration of Idaho's constitutional restriction. **Mr. Troupis** remarked that he had similar considerations but came to the conclusion that debate on this issue during Idaho's Constitutional Convention was influenced by the fact that the Bible was used in schools in its entirety to teach many different subject areas, resulting in fear that the Bible would be used without restraint. He suggested a different outcome if similar debate were to occur today. **Senator Davis** inquired whether a joint resolution would be more appropriate to address this issue, to which **Mr. Troupis** replied he would support a constitutional amendment; however, there currently exists an opportunity to more clearly define "sectarian" and "denominational" in this regard. In response to a question from Senator Davis regarding the constitutionality of restricting free speech rights, **Mr. Troupis** stated that, to his knowledge, there has never been a legal challenge to Article IX, § 6, of the Idaho Constitution on free speech grounds. He noted that a narrow construction of this provision must be taken to be consistent with the First Amendment.

**Senator Winder** referenced same-sex marriage as an example of an issue where state and federal constitutional provisions differ and inquired whether the same circumstance would be applied to state restrictions on denominational texts. **Mr. Troupis** explained that the same-sex marriage ruling was a U. S. Supreme Court decision and the U.S. Constitution was not changed. He also indicated that there may be other instances where state provisions conflict with federal law that may face legal challenges in the future. **Senator Winder** inquired if there currently exist restrictions on the use of the Quran or other religious texts in public schools. **Mr. Troupis** responded that he is unaware of such restrictions but noted that other states do utilize religious texts in schools. He noted that the First Amendment prohibits religious indoctrination or training, and a narrow construction must be taken of Idaho's constitutional provision regarding religious texts used in schools. **Senator Winder** expressed disappointment in the nature of debate during Idaho's Constitutional Convention regarding this issue but recognized it as part of Idaho history. He then asked if this legislation simply clarifies for educators that religious texts may be used in school for literary or historical purposes, to which **Mr. Troupis** affirmed.

**Scott Yenor**, Professor, Boise State University, spoke in support of **S 1342**. **Mr. Yenor** remarked that after studying the Idaho Constitutional Convention, specifically the Blaine Amendment debate, a negative vote may be interpreted several different ways outside of explicit rejection of the provision. **Mr. Yenor** then explained how knowledge of or familiarity with the Bible enhances the teachings of literature, history, government and philosophy and provided examples. In response to questions from Senator Stennett, **Mr. Yenor** stated that he does not feel he is restricted from using religious texts in his teachings. **Senator Stennett** noted that the Old Testament is found in many religious texts and asked if reference can then be made to those texts. **Mr. Yenor** explained that he has given consideration to this issue and is unable to identify a book required by Idaho curriculum that is more decisively shaped by a religion other than Christianity.

**Senator Winder** sought clarification regarding supremacy in instances of constitutional conflict between state and federal government. **Mr. Yenor** explained that states often further restrict activity beyond the scope defined in the U.S. Constitution, and the pertinent issue in this case is if the Idaho Constitutional restriction conflicts with other constitutional values.

**Senator Siddoway** asked if a teacher found it necessary to provide students with basic knowledge of Biblical principles to further enhance their understanding, and if the Bible was referenced in class, would that action violate the law? **Mr. Yenor** explained that it is not always necessary for a student to have a broad understanding of Biblical doctrine to understand and gain significance of an excerpt, and he provided an example. However, he pointed out that some literary works, including those that criticize Christianity, do require deeper understanding of Christian doctrine.

Mr. Troupis was asked to return to the podium to answer additional questions. **Senator Lakey** sought clarification regarding reference to Astrology, Biology and Geology as topics of study where an understanding of the Bible may be useful or relevant, asking if striking these areas of study would prevent possible legal challenges in the future pertaining to teaching creationism in schools. **Mr. Troupis** responded that removing these areas of study would not necessarily prevent future legal challenges.

**Julie Lynde**, Executive Director, Cornerstone Family Council, spoke in support of **S 1342**. **Ms. Lynde** emphasized the importance of having clarity on this issue for teachers, students and parents.

**Kathy Griesmyer**, American Civil Liberties Union (ACLU) of Idaho, spoke in opposition to **S 1342**. She asserted that this legislation opens the door to creationism being taught in public school science classes. **Ms. Griesmyer** remarked that the use of the Bible should be restricted to courses in which teachers present the Bible in context with similar texts, and that these teachers should receive specialized training. **Senator Winder** noted that scientific beliefs are routinely refuted, thus there is value in providing many different pathways to explore scientific theories of origin, to which **Ms. Griesmyer** agreed but stated these discussions must take place outside the classroom. **Senator Winder** asked if the ACLU supports reference to religious texts in other areas of study, such as literature and history. **Ms. Griesmyer** stated that the ACLU does support the Bible being cited in certain public school courses, such as comparative religion and literature classes, keeping in mind constitutional requirements and ensuring religious texts are appropriately incorporated into established curriculum.

Mr. Troupis was asked to return to the podium. **Senator Davis** referenced the Idaho Attorney General's letter regarding repeal and replacement of § 33-1604, Idaho Code, and its conclusion that proposed language would invite constitutional challenges as applied under Article IX, § 6, of the Idaho Constitution because it selects one specific religious text over others (see attachment 4). **Senator Davis** noted that the Attorney General's opinion references previous draft language. **Mr. Troupis** stated that new language was added that prohibits religious indoctrination to satisfy constitutionality issues. He suggested that the Attorney General's opinion emphasized that if the Bible were considered a sectarian or denominational text, it would violate Article IX, § 6, of the Idaho Constitution. **Mr. Troupis** specified that a narrow construction of the Idaho Constitution, specifically what constitutes sectarian or denominational texts, is necessary to satisfy First Amendment protections. If narrowly construed, then it is clear that the Bible is not a sectarian text. **Senator Davis** referenced Article IX, § 6, of the Idaho Constitution, suggesting that sectarian tenets or doctrine are prohibited from

being taught in public schools, regardless of the manner or context in which they are presented. **Mr. Troupis** agreed with that interpretation. **Senator Davis** then observed that it is not the intention of this legislation to teach religious tenets or doctrine, to which **Mr. Troupis** also agreed. **Senator Davis** asked how any references to the Bible can be free from expression of religious doctrine, and **Mr. Troupis** stated an argument can be made that in cases of non-hard science courses, the Bible may be utilized for reference purposes without suggestion of religious tenets or doctrine. He noted that removing the hard sciences from proposed language would align this legislation within parameters of the U.S. and Idaho Constitutions.

Letter of Comment from Derek Voorhees, D.Min, Professor of Bible, Theology, and Biblical Interpretation, Boise Bible College (attachment 5).

**Ms. Post** returned to the podium to provide clarifying remarks. She noted that Western thought has been influenced by a Christian world view, and the Bible is significant in this regard because it provides, as a primary document, a framework for understanding; she also emphasized the Bible's influence on scientific thought. **Ms. Post** noted the significance of the Bible over other religious texts as foundational to Western thought.

**Senator Nuxoll** returned to the podium to provide closing remarks. She emphasized that this legislation does not mandate the use of the Bible or other religious texts in schools and prohibits religious indoctrination; the legislation provides clarity for educators on how to utilize religious texts in school.

**Senator Lakey** asked if Senator Nuxoll would support the removal of "Astrology, Biology and Geology" from the legislation, to which **Senator Nuxoll** replied in the affirmative.

**Senator Hill** sought clarification on the significance of removing "Astrology, Biology, and Geology" from the legislation, and **Senator Lakey** explained that striking these courses addresses legal concerns regarding the teaching of creationism in public schools.

**Senator Davis** noted that removing "Astrology, Biology and Geology" addresses some of the problematic elements of the legislation. He additionally suggested that "religious texts" replace "Bible" as expressly permitted to lessen the confusion about what types of religious texts may be referenced in the classroom. **Senator Nuxoll** replied that she would not support such change.

**Senator Winder** asked if Senator Nuxoll would support striking "Astrology, Biology and Geology" from current language but also adding language that incorporates other religious texts for comparative purposes. **Senator Nuxoll** responded that the use of other religious texts is already suggested in the legislation but would be open to discussion. **Senator Winder** commented that he would like to find a way to proceed by maintaining the integrity of the legislation but also limiting potential legal challenges. He reiterated that additional language in a separate section may help eliminate confusion pertaining to other religious texts. **Senator Winder** recommended adding "Religious texts, including the Bible, are expressly permitted..." to line 13, replacing "The Bible is expressly permitted..."; similar changes were suggested to line 19. **Senator Nuxoll** replied that she would support these changes.

**MOTION:**

**Senator Lakey** moved that **S 1342** be sent to the 14th Order for amendment. **Senator Buckner-Webb** seconded the motion.

**Senator Lakey** stated that this legislation with proposed amended language is an improvement to current statute and provides clarity regarding the use of religious texts in public schools.

**Senator Buckner-Webb** appreciated the opportunity to revise this language and recognized the relevance and importance of other religious texts in the evolving cultural landscape of modern society.

**Senator Stennett** noted that Idaho has more than 100 languages spoken and cultures represented in Idaho public schools, and the incorporation of more than one belief system will only benefit Idaho's student body.

The motion carried by **voice vote**.

**S 1272**

RELATING TO THE SCHOOL DISTRICT BOND CREDIT ENHANCEMENT PROGRAM to raise the aggregate limit for school district bond.

**Larry Johnson**, Manager of Investments, Endowment Fund Investment Board (EFIB), presented **H 1272**. **Mr. Johnson** stated the purpose of this legislation is to increase the capacity of the School Bond Credit Enhancement Program, resulting in a reduction in the interest rate on general obligation schools bonds for Idaho schools. He pointed out two substantive changes which include an increase in the maximum amount the bond principal can be guaranteed from \$800 million to \$1.2 billion, and an increase in the maximum amount available to any one district from \$20 to \$40 million. **Mr. Johnson** emphasized the proposed legislation will save school districts money and increase the fund's fee revenue.

**MOTION:**

**Senator Siddoway** moved to send **S 1272** to the floor with a **do pass** recommendation. **Vice Chairman Lodge** seconded the motion.

**Senator Winder** stated that he is a member of the EFIB and expressed support for the motion.

The motion carried by **voice vote**.

**S 1269**

RELATING TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY to provide that certain moneys shall be held in the Environmental Protection Trust Fund.

**Orville Green**, Waste Management and Remediation Division Administrator, Idaho Department of Environmental Quality (DEQ), presented **S 1269**. **Mr. Green** stated that **S 1269** provides DEQ the option to invest moneys obtained through settlements with EFIB to fund long-term projects. Current statute requires DEQ to invest all moneys received by the agency with the Idaho State Treasurer's Office. This legislation amends § 39-107C, Idaho Code, to allow DEQ to invest portions of non-General Fund moneys received for long-term projects with the EFIB. **Mr. Green** pointed out that the legislation requires concurrence of the DEQ Director, the Idaho State Treasurer's Office, and the EFIB, and he outlined the planning and implementation process.

**Senator Siddoway** sought clarification regarding the determination of how these funds may be used and for what projects. **Mr. Orville** explained that most settlement funds are dedicated to specific projects, such as the Coeur d'Alene basin.

**MOTION:**

**Senator Siddoway** moved to send **S 1269** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

**RS 24588**

A JOINT MEMORIAL to ask the United States Congress to restructure the United States Postal Service in a way to provide acceptable delivery times.

**Dan Blocksom**, Policy Analyst, Idaho Association of Counties (IAC), introduced **RS 24588**. **Mr. Blocksom** explained that in April 2015, the mail processing plant in Pocatello, Idaho, was closed and mail sorting services were moved to Salt Lake City, Utah. As a result, delays have impacted the citizens in Eastern Idaho and their ability to send and receive mail in a timely manner. This legislation asks the United States Congress to reopen not only the Pocatello plant but other shuttered mail processing plants around the country.

**Senator Davis** asked if the Idaho Falls mail processing plant that was closed decades earlier would be included in this legislation, to which **Mr. Blocksom** replied that he was not aware of the Idaho Falls facility but did receive similar requests regarding the Twin Falls mail processing plant that was shut down. **Senator Davis** commented that the legislation may be too encompassing in that not all shuttered mail processing plants need to be reopened; however, he did note the geographical importance of the Pocatello mail processing plant.

**Senator Hill** made a similar observation that in some cases, it may have been fiscally responsible to shutter certain mail processing plants. He then sought clarification on how the United States Postal Service (USPS) will cut costs by restructuring pre-funding for retirement benefits. **Mr. Blocksom** explained that the pre-funding requirement is unique to the USPS and costs approximately \$5 billion per year; this reform effort may help reduce costs and allow at-risk mail processing plants to remain open.

**MOTION:**

**Senator Winder** moved to send **RS 24588** to print. **Vice Chairman Lodge** seconded the motion. The motion carried by **voice vote**.

**MINUTES  
APPROVAL:**

**Senator Stennett** moved to approve the Minutes of February 10, 2016. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

**Senator Siddoway** moved to approve the Minutes of February 8, 2016. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

**Senator Hill** moved to approve the Minutes of February 15, 2016. **Vice Chairman Lodge** seconded the motion. The motion carried by **voice vote**.

**ADJOURNED:**

There being no further business, **Chairman McKenzie** adjourned the meeting at 10:03 a.m.

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Senator McKenzie  
Chair

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Twyla Melton, Secretary

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Assisted by Jennifer Carr

Senator Merrill  
Attachment 1

### SB1342 Bible use in schools

#### PURPOSE (opening statement)

SB 1342 allows the Bible to be used as a reference in public schools by codifying in law a practice which is already being allowed. This legislation will relieve any fear or confusion for students, teachers, and parents who desire to use the Bible for reference purposes as it occurs naturally in different subjects. It is the intent that other religious works imbedded in the scope and sequence of learning can also be permissively discussed under this rule.

No one is required to use any religious texts, doctrine cannot be taught, and there is no mandate for usage. In an environment often clouded by "political correctness", SB 1342 eliminates confusion what our rights are and affirms free speech for our students and teachers.

Biblical literacy is essential to understand the history and origin of Western Civilization. Its influence is embedded in America's founding documents, classical literature, the arts, and other disciplines. **The Bible is the document brought to North America by our nation's first immigrants, used in our first public schools, and is the foundation of our Judeo-Christian heritage.**

Some perceive the Bible to be centric to only the Christian Faith. This is not true. It is referenced by Jews, Muslims, Hindus, Christians, and others. As such, it is integral to world history and literacy. If Biblical references were to be ignored in our education system, that would mean an accurate portrayal of history would also be ignored.

Included in your packet are 2 legal opinions. One from Michael Farris, Chancellor Emeritus of Patrick Henry College, and one from Matt Sharp, of the Alliance Defending Freedom. They are available on the phone to answer questions. I also have an opinion from Idaho attorney Christ Troupis. You will find that all of them agree that this proposed section of code DOES INDEED meet both Federal and State Constitutional muster. Also included in your



packet is a statement from Pastor Steve Crane, and an article from the ACLU affirming its opinion of Constitutionality.

**OTHER STATES:**

SB1342 was thoughtfully written using as a reference similar language approved by at least 9 other states. These include Arkansas 2013, Arizona 2012, Florida 2002, Kentucky 1990, Oklahoma 2010, Pennsylvania 1965, Tennessee 2008, and Texas 2007, Iowa, 1884.

Mr. Chairman, members of the Committee, please understand by passing SB1342, Idaho is NOT charting new waters.

**CONCLUSION – (Closing statement):**

Mr. Chairman, members of the committee:

1. Senator Davis—did send an email
2. 3 opinions agree that it is constitutional—do you wish to talk to them
3. Matt Sharp reason
4. Swear oath of office on Bible
5. ACLU document in your file

I DO believe we share a desire to ensure Idaho students have optional access to an accurate portrayal of history. It is true, at least within my constituency, that many people believe our culture is suffering morale decline, and if so there could be a connection between that, and the fact that many of our young people have little to no knowledge of the historical roots of our nation.

Everyone should have the right to believe whatever they want to believe, and the only way that can happen is if a fair representation of history, literature and arts are available.

And I believe there is something else we agree on: Doctrine should not be taught in the public classroom. That is why SB1342 approaches this subject in similar fashion as Arkansas, Arizona, Florida, Kentucky, Oklahoma, Pennsylvania, Tennessee, Texas, and Iowa: By ensuring doctrinal teaching is not allowed, and employing no mandates.

We pass legislation all the time to make sure that there is clarity in laws and rules. Why can't we have clarity in this issue?

If we don't pass this, then we are sending a message that there is still confusion on how to use religious texts for any purpose.

Read by Representative  
Paul Shepherd  
Attachment 2

**STATEMENT IN SUPPORT OF  
"USE OF THE BIBLE IN PUBLIC SCHOOLS" LEGISLATION (S. 1342)**

**Submitted by Evalyn Bennett of Salmon, Idaho  
February 24, 2016**

I am providing this statement as one of the Idaho citizens who helped to write the "Use of the Bible in Public Schools" legislation you are considering. In June 2015 I presented a resolution advocating this proposed legislation to the Idaho Republicans Resolutions Committee. That resolution passed the Resolutions Committee and then passed the State Republicans Central Committee with only two dissenting votes. This indicates *extremely* strong state-wide support for this bill among Idaho Republicans.

The rationale for this legislation should also result in bipartisan -- even unanimous --support. That rationale is as follows:

Two years ago I noticed that a statement in the Idaho Constitution, Article IX, Section 6 could be construed to prohibit public school use of political documents such as the U.S. Constitution and religious texts such as the Bible. That statement reads, "No books, papers, tracts or documents of a political, sectarian or denominational character shall be used in any schools established under the provisions of this article..." My specific concern was that this wording appears to restrict teachers' and students' freedom of speech - a right guaranteed under the First Amendment to the U.S. Constitution. I sought advice about how to address this problem and was told that citizens could either seek to amend the Idaho Constitution or ask the legislature to pass clarifying legislation. I chose the clarifying legislation approach as being a sufficient remedy.

Given that Idaho public schools require students to take two semesters of U.S. government, I knew that the U.S. Constitution was not a prohibited political document. But I was concerned that the Bible might be a *de facto* censored document in Idaho public schools. This belief was confirmed during my presentation to the Resolutions Committee. I asked the committee and audience members present to raise their hands if they had been taught in an Idaho public school and **ever** used the Bible in a class. That collective assembly represented about 500 years of public schooling, yet only a few persons raised their hands.

This response indicates the Bible is not even being used in Idaho public school study of literature and history, two uses which have been clearly permitted by the U.S. Supreme Court.

As outlined in the "Sample Use of the Bible as a Reference Source" handout you have been provided, the Bible can be used in public school classes as a reference source for numerous topics of inquiry, including literature and history. Teachers can objectively present, and students can study this material without teaching "sectarian or religious tenets or doctrines," instruction which is prohibited under the Idaho Constitution, Article IX, Section 6.

Article XI, Section 1 declares that the sole purpose of public education in Idaho is to establish an informed citizenry that is capable of maintaining our republican form of government. This bill will allow students to become aware of the Bible's influence on law, history, government, literature, morals, value, and culture, thereby preparing students to function as responsible citizens after they graduate.

I urge you to pass S. 1342 so students and teachers can, without question, use the Bible as a reference source in public education. This use is critical to fulfill the mission of Idaho public schools. The clarifying legislation is also essential to affirm students' and teachers' right to freedom of speech, as protected by the U.S. Constitution. Please make it clear that the Bible is not a censored document.

## **SAMPLE USE OF THE BIBLE AS A REFERENCE SOURCE FOR IDAHO PUBLIC SCHOOL SUBJECTS**

### **ART, ARCHITECTURE and MUSIC**

Notable compositions such as Handel's *Messiah* use Bible verses in the lyrics. Various musical instruments are named in Bible passages (e.g., harp, lyre, cymbals). The Psalms were intended to be sung. Traditional spirituals of the American slave era are based on Bible concepts and passages.

Famous painters and sculptors chose subject matter from the Bible as the inspiration for their works (e.g., Michelangelo's Sistine chapel paintings, *David*, and *Moses*). Frescos and stained glass windows in numerous U.S. and European churches and cathedrals recount passages of the Bible through art.

Students interested in architecture could seek to construct a replica of the Tabernacle or Temple based on the instructions provided in Exodus 26 and I Kings 6.

### **ECONOMICS**

The Bible contains information on numerous concepts related to economics, including property ownership, money, inheritance, occupations, work and rest, wealth and poverty, rewards, taxation, tithing, debt, creditors, borrowing, lending, usury, interest, repayment, cancellation of debt, working for a purpose other than personal gain, fraud, deeds of ownership, deposits of guarantee, fair wages, giving of alms, fair treatment of workers, caring for orphans and widows, service, and redemption.

### **ENGLISH and FOREIGN LANGUAGES**

English words such as baptism and apostle come directly from the koine Greek of the New Testament, and an English translation of the Bible exemplifies perfect use of our language. The apostle Paul's letters utilize literary techniques such as persuasion, sarcasm, rhetorical questions, and quotations to communicate his message; students can learn from Paul's writings how to effectively incorporate these literary devices into their own compositions. Noah Webster, author of the first American dictionary, utilized the Bible to illustrate word meanings and usage. English and American classics such as *Everyman*, *Paradise Lost*, and *The Scarlet Letter* cannot be fully appreciated without an understanding of the Bible's teachings. The Bible was the primary "textbook" of the first schools in our nation; children learned to read from the Bible and *Pilgrim's Progress*.

The Bible was written in three languages (Hebrew, Aramaic, and Greek), but has been translated into numerous languages. Comparing an English translation of the Bible to a foreign language translation is one way to become more proficient in a foreign language.

### **GOVERNMENT and LAW**

The Bible is a source of information about ancient Israel's unique form of government called a theocracy. Deuteronomy records the Israelite nation's ancient legal system in great detail; this legal system is the foundation of our nation's current legal system

The Bible addresses numerous topics related to government such as civil and criminal law, citizenship, obedience, justice, civil trials (I Corinthians 6:1-8), slavery and freedom, making amends, condemnation,

grace, mercy, justification, mediation, punishment for criminal offenses, war, treaties, covenants, safety, refuge, and selection and authority of government officials (Romans 13:1-7).

## **HEALTH**

The Bible discusses behavioral, dietary and sanitary prescriptions for personal health and relates instances of healing.

The Bible is filled with passages describing actions or mindsets which may result in mental health concerns or damaged interpersonal relationships: anger, grief/anguish, fear, dissatisfaction, betrayal, anxiety, pride, shame, vengeance, bitterness, dishonesty, alcohol abuse, gossip, cheating, despair, doubt, envy, hypocrisy, immorality, laziness, self-indulgence, slander, and worry.

Other Bible passages offer guidance for achieving mental health: hope, righteousness, comfort, peace, love, patience, faith, humility, modesty, honesty, friendship, compassion, forgiveness, confession and repentance, corrective education and discipline, devotion, self-discipline, endurance, perseverance, joy, fellowship, generosity, gladness, thanksgiving, hospitality, contentment, and satisfaction.

## **MARRIAGE AND FAMILY**

The Bible contains passages related to betrothal; marriage; consequences of incest, rape, adultery, prostitution and polygamy; standards of sexuality morality; divorce; marital faithfulness; authority structure in the family; love and respect; responsibility; instruction of children; adoption; the nuclear family; the extended family (tribe); and the family of God.

## **MATH**

The Old Testament and New Testament both record ancient units of measurement for distance, length, weight, and monetary value. A comparison of ancient and modern units of measure would expand students' world view and give them opportunities to practice mathematical conversion. In Daniel 5: 25-28, units of money convey a symbolic message to King Belshazzar of Babylon.

## **SCIENCE**

Oceanography Matthew Maury was inspired to search for the "paths of the seas" referred to in Psalm 8:8. His scientific inquiry led to our modern understanding of ocean currents.

Anatomist and physiologist William Harvey sought to understand the meaning of Leviticus 17:11: "...the life of every creature is in its blood..." His work led to our understanding of the life-giving properties of blood and the essential function of the circulatory system.

The Bible explains that the earth is a sphere suspended in space (Job 26:7: "...he suspends the earth over nothing"; Isaiah 40:22: "He sits enthroned above the circle of the earth...")

The Bible states that our visible world is made of invisible components (Hebrews 11:3: "...what is seen was not made out of what was visible"). This truth recorded in the first century A.D. is verified by modern study of chemistry and physics (e.g., atomic and sub-atomic particles, light). 2 Peter 3:10 refers to the elements of the earth.

Modern biology uses a classification system that is consistent with the Biblical term "kinds"(Genesis 1:24). (Kinds are analogous to "families" in the Linnaeus classification system.)

The Bible explains the origin of the sun, moon, and stars, and establishes their use for light, time and seasons (Genesis 1: 14-18). Constellations are named, including the Bear, Orion, Pleiades, and the constellations of the south (Job 9:9 and 38:31; Amos 5:8). [Does anyone wonder what caused the earth's revolution around the sun to slow, resulting in changes to the 360-day year documented in the Bible, Hebrew calendar, and Mazzaroth, and utilized in our system of time and longitude/navigation? The answer to that question might be found in the Bible - if students are allowed to study it.]

The Bible tells us unborn children already have a name and a purpose (Psalm 139:13-16; Jeremiah 1:4-5).

Botanist Dr. George Washington Carver was inspired by Genesis 1:29 to discover how plants could benefit mankind. He did pioneering work in the applied science of chemurgy (using chemicals from farm and forest products as raw materials in manufacturing) and developed hundreds of products from sweet potatoes and peanuts. ("... I give you every seed-bearing plant... and every tree that has fruit with seed in it. They will be yours for food." Genesis 1:29)

The genealogies of the Old Testament can be used to calculate the approximate age of the earth.

The Bible is a source of information about foods that were eaten in ancient times. The Bible has many references to agricultural practices (farming and animal husbandry). Challenges to food production (drought, locusts) are also discussed.

The Bible refers to precious and semi-precious stones and metals used for construction, weapons, tools, and adornment.

## **U.S. HISTORY**

The Bible was brought to our shores by the Pilgrims, our county's first settlers, and by countless immigrants thereafter. John Smith saved the Jamestown colony from starvation by applying the instruction stated in II-Thessalonians 3:10, "If a man will not work, he shall not eat." The history of U.S. social institutions (economy, government, law, family, religion, education) is based on the application of concepts discussed in the Bible.

## **WORLD HISTORY and GEOGRAPHY**

The Bible explains the origin of nations and languages (Genesis 11:1-9). The Bible records the rise and fall of ancient civilizations such as the Assyrian, Babylonian, Persian, and Greek empires.

Places are named in the Bible that still exist today, such as Egypt, the Euphrates River, Rome, Athens, and Jerusalem. Many places of antiquity that are mentioned in the Bible have been uncovered through archeology (Bethel, Ephesus). It is possible to trace the routes of travel mentioned (e.g., Paul's journeys).

The Bible helps students evaluate the characteristics of various leaders in world history (e.g., Abraham, Joseph, Moses, Samuel, Joshua, King David, King Solomon, King Nebuchadnezzar (Daniel 1-4), and Darius the Mede (Daniel 6)).

Major events of the Bible such as regional famines and battles of war are verified by extra-Biblical sources.

January 8, 2016

Senator Sheryl Nuxoll  
P.O. Box 187  
Cottonwood, Idaho 83522

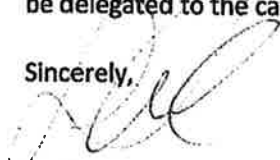
I have been asked to comment on the proposed legislation to amend Idaho Code 33-1604 concerning the reading of the Bible in Public Schools—specifically regarding the phrase: "no books, papers, tracts or documents of a political, sectarian or denominational character shall be used or introduced in any schools established under the provision of this article ..."

In response to the above code, let me state that the Bible is not a "denominational" text, but is better understood as an inter-denominational or even a nondenominational text. It is read and used by various groups regardless of their denominational affiliation. It is read and accepted by both Protestants and Catholics. It is held dear by Orthodox, Reformed, Anglican, Baptist, Presbyterian, Methodist, Mormon, Episcopalian, Pentecostal, Church of God, Seventh-day Adventist and nondenominational groups alike (just to name a few). And while it is true that a few specific denominations prefer a specific translation of the Bible—all groups, regardless of their affiliation, acknowledge their use of the Bible, and all understand that the various English translations are exactly that—translations that all come primarily from an original Hebrew or Greek text.

Furthermore, the Bible is more than an inter-denominational text. It is also an inter-faith text. Jews, Messianic Jews, Protestants, Catholics, and even Muslims use the Bible (or portions of the Bible) in their study. For example, Jews refer to "the Books of Law and the Prophets" which are contained in the Old Testament. Messianic Jews use the entirety of the Old and New Testament. Even Muslims recognize "the Taurah, Zabur, and the Injil." These include the Pentateuch (the Torah) and the Book of Psalms from the Old Testament, and all the New Testament books, specifically highlighting the Gospels.

In addition, it is also a secularly revered text which is quoted and referred to by nearly every walk of life—religious or otherwise. It is quoted by historical works of literature, nonreligious books and even very secular magazines. It is mentioned on the airwaves and by Hollywood. The Bible finds its way into the public square, the courtroom, and certainly into private life—even among those who do not profess faith of any kind. Courses are regularly taught on college campuses across our nation entitled, "The Bible as Literature." The Bible is the consistent "best seller" year after year—decade after decade. It is the most widely read and often studied book in the history of mankind by no short measure. Its wide use and wide acceptance cannot be delegated to the category of a denominational text.

Sincerely,



Dr. Steven A. Crane



STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL

LAWRENCE G. WARDEN

December 29, 2015

The Honorable Sheryl Nuxoll  
Idaho State Senator  
PO Box 187  
Cottonwood, ID 83522

Re: Repeal and Replacement of Idaho Code § 33-1604 – Our File No. 15-53353

Dear Senator Nuxoll:

This letter is in response to your recent inquiry regarding a repeal and replacement of Idaho Code § 33-1604. As provided in greater detail below, defense of the replacement language may not be possible due to the existing case law interpreting the Establishment Clause of the United States Constitution and the strict limitations of Article IX, § 6 of Idaho's Constitution.

The proposed legislation known as DRMPN062 has two sections. This first section of DRMPN062 would repeal existing Idaho Code section 33-1604, which now provides:

33-1604. BIBLE READING IN PUBLIC SCHOOLS.  
Selections from the Bible, to be chosen from a list prepared from time to time by the state board of education, shall be read daily to each occupied classroom in each school district. Such reading shall be without comment or interpretation. Any question by any pupil shall be referred for answer to the pupil's parent or guardian.

The Bible readings required by the current version of § 33-1604 are unconstitutional<sup>1</sup> under the First Amendment, which provides: "Congress shall make no law respecting an establishment of religion ... .

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<sup>1</sup> This provision of the Code was approved by the legislature as part of a comprehensive recodification of Idaho's education laws. This recodification was approved on February 15, 1963. The decision in *Abington* was released on June 17, 1963. This provision likely is of questionable constitutionality based upon Article IX, § 6 of Idaho's Constitution.



These companion cases present the issues in the context of state action requiring that schools begin each day with readings from the Bible. ... In light of the history of the First Amendment and of our cases interpreting and applying its requirements, we hold that the practices at issue and the laws requiring them are unconstitutional under the Establishment Clause, as applied to the States through the Fourteenth Amendment.

*School Dist. of Abington Tp., Pa. v. Schempp*, 374 U.S. 203, 205, 83 S.Ct. 1560, 1562 (1963). The repeal of an unconstitutional statute like § 33-1604 is constitutional.

The second section of DRMPN062 would enact the following replacement:

33-1604. USE OF THE BIBLE IN PUBLIC SCHOOLS.

The Bible is expressly permitted to be used in Idaho public schools for reference purposes to further the study of literature, comparative religions, English and foreign languages, United States and world history, comparative government, law, philosophy, ethics, astronomy, biology, geology, world geography, archaeology, music, sociology, and other topics of study where an understanding of the Bible may be useful or relevant.

The issue is whether this replacement section is constitutional. The answer is that it is probably not facially unconstitutional under the First Amendment, but has a significant potential to be applied in an unconstitutional manner under the First Amendment and is almost certainly unconstitutional under Article IX, § 6, of the Idaho Constitution.

Analysis of the proposed language begins with analysis under the First Amendment. *Schempp* itself recognized that the Bible may be used to study a number of subjects consistently with the First Amendment:

In addition, it might well be said that one's education is not complete without a study of comparative religion or the history of religion and its relationship to the advancement of civilization. It certainly may be said that the Bible is worthy of study for its literary and historic qualities. Nothing we have said here indicates that such study of the Bible or of religion, when presented objectively as part of a secular program of education, may not be effected consistently with the First Amendment.

374 U.S. at 225, 83 S.Ct. at 1573.

*Schempp* allows use of the Bible for some purposes under the First Amendment. To take some examples from English literature and the performing arts, one cannot understand references

to commonly encountered phrases like one's "brother's keeper"<sup>2</sup> or the "writing on the wall"<sup>3</sup> without some understanding of the stories of Cain and Abel in the fourth chapter of Genesis or of Belshazzar's feast in the fifth chapter of Daniel. One could readily devise similar examples of the use of the Bible "as part of a secular program of education" in classes teaching "literature, comparative religions, English and foreign languages, United States and world history, comparative government, law, philosophy, ethics, ... world geography, archaeology, music, [and] sociology," that would provide context and meaning for a class "as part of a secular program of education."

Use of the bible in teaching the sciences of "astronomy, biology, [and] geology" is another matter. Using Biblical accounts of creation for reference in teaching the origin of the stars, the origin of life, or the origin of the Sun, Earth, Moon or other parts of the solar system in classes in astronomy, biology or geology would violate the First Amendment. *Edwards v. Aguillard*, 482 U.S. 578, 591, 107 S.Ct. 2573, 2581 (1987) (invalidating a state law which required schools to teach creationism if they chose to include evolution in their curricula because it was motivated by "the teachings of certain religious denominations").<sup>4</sup> Thus, the First Amendment would permit using the Bible for reference to teach some of the subjects listed in the revised § 33-1604, but not all of them, because the First Amendment allows use of the Bible when "when presented objectively as part of a secular program of education."

The Idaho Constitution must also be examined when analyzing use of the Bible in public education. Idaho Constitution Article IX, § 6, is more restrictive of use of the Bible (and other religious materials) than the First Amendment. Article IX, § 1, provides:

**§ 6. Religious test and teaching in school prohibited. —**

No religious test or qualification shall ever be required of any person as a condition of admission into any public educational institution of the state, either as teacher or student; and no teacher or student of any such institution shall ever be required to attend or participate in any religious service whatever. *No sectarian or religious tenets or doctrines shall ever be taught in the public schools*, nor shall any distinction or classification of pupils be made on account of race or color. *No books, papers, tracts or documents of a political, sectarian or denominational character shall be used or introduced in any schools established under the provisions of this article*, nor shall any teacher or any district receive any of the public

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<sup>2</sup> [https://en.wikipedia.org/wiki/My\\_Brother%27s\\_Keeper\\_\(disambiguation\)](https://en.wikipedia.org/wiki/My_Brother%27s_Keeper_(disambiguation)) shows the ubiquity of the phrase "brother's keeper." This webpage lists nine novels, three musical pieces, and twelve film, theater or television episodes with these words in the title.

<sup>3</sup> [https://en.wikipedia.org/wiki/The\\_writing\\_on\\_the\\_wall\\_\(disambiguation\)](https://en.wikipedia.org/wiki/The_writing_on_the_wall_(disambiguation)) has thirty-eight references to "writing on the wall" in literature or the performing arts.

<sup>4</sup> This is an area in which one can almost always, if not always, devise a hypothetical that is the exception to the rule. For example, an astronomy class could begin with a history of astronomy that examined belief and knowledge about the stars, planets, Sun and Moon from ancient times to the present. A reference to the battle of Gibeon in the tenth chapter of Joshua and to the Sun standing still over the Earth could illustrate ancient peoples' belief in a geocentric astronomy in which the Sun orbits the Earth.

school moneys in which the schools have not been taught in accordance with the provisions of this article.

Emphasis added.

The Guidelines for Applying the Provisions of Idaho Constitution, Article IX, § 6, Regarding Sectarian, Religious or Denominational Teaching or Materials, Prepared Under the Direction of the Idaho Public Charter School Commission and Approved by the Commission on February 11, 2010, explain the difficulty of directly using the Bible for instruction in Idaho schools. A copy of those Guidelines is attached to this memo. To begin, as the Guidelines explain, there is no one “Bible” to use “for reference purposes”:

There are at least four canons of the Christian Bible: The Protestant Old Testament contains 39 books; the Roman Catholic Old Testament contains additional books called the Apocrypha for a total of 46; the Greek Orthodox Old Testament contains up to 53 books (not all 53 books are used by all Greek Orthodox churches); and the Slavonic Old Testament also contains up to 53 books. In addition, books that have one name in one canon (*e.g.*, the Protestant canon’s 1st and 2nd Samuel and 1st and 2nd Kings) have other names in a different canon (*e.g.*, the Roman Catholic canon’s 1st, 2nd, 3rd and 4th Kings). None of the four Christian canons’ Old Testament exactly coincides with the Tanakh, which is the English transliteration of the Hebrew acronym for the Torah (“Teaching”, or the Five Books of Moses), *Nevi'im* (“Prophets”) and *Ketuvim* (“Writings”), from which the Christian Old Testament is derived.<sup>5</sup>

Guidelines, footnote 1, page 1.

Thus, any choice to use one Bible among various Bibles is a sectarian or denominational choice because different denominations have their own theological reasons for deciding what books are a part or are not a part of their Bible. And, even within groups of religious communities that include the same books in the Bible, there can be substantial religious differences among which translations are preferred. To take an example from American history, the Pilgrim dissenters from the Church of England who settled Plymouth and other New England colonies rejected the King James translation because it was authorized by and dedicated to a monarch whose ecclesiastical authorities were denying them religious freedom; instead they preferred to

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<sup>5</sup> The following Wikipedia article includes a “side-by-side” graphic showing the books of the various Christian Bibles: [https://en.wikipedia.org/wiki/Books\\_of\\_the\\_Bible](https://en.wikipedia.org/wiki/Books_of_the_Bible).

use the Geneva Bible, which was not translated at the King's direction.<sup>6</sup>

Proposed Idaho Code §33-1604 is virtually impossible to defend because it selects a specific religious text to be used as a reference over any other religious texts. This selection of text can be interpreted as an establishment of one religious preference over another, which creates an insurmountable constitutional hurdle. A defense of this provision could possibly be advanced if the title is amended to state: "Use of Religious Texts in Public Schools." Amending the statute to mirror that change would require the substitution of "religious texts" for the "Bible," each time it appears in the proposed language. As proposed § 33-1604 would invite constitutional challenge and almost certainly be held unconstitutional as applied under Article IX, § 6. Even with the amendment, the constitutional certainty of this proposal is cloudy.

Sincerely,



BRIAN KANE  
Assistant Chief Deputy

BK/tjn

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<sup>6</sup> See [https://en.wikipedia.org/wiki/Geneva\\_Bible](https://en.wikipedia.org/wiki/Geneva_Bible) for an account of the origin of the Geneva Bible used by dissenters from the Church of England and [https://en.wikipedia.org/wiki/King\\_James\\_Version](https://en.wikipedia.org/wiki/King_James_Version) for an account of the origins of the King James translation. These Wikipedia articles are not cited because they are or are not authoritative or unbiased, but to show the kinds of debates that ensue over various translations of a canon. Of course, there would be more debates about the choice of one canon over another. That is why one canon should not be preferred over others for use in schools, and one translation should not be preferred over another, either.

February 24, 2016

**Administration:**

Terry E. Stine  
*President*  
Dr. Charles A. Crane  
*Chancellor*  
Charles Faber  
*Academic Dean*  
Cody Christensen  
*Dean of Students*  
David Davolt  
*Director of Development*  
Val Welch  
*Business Manager*

**Directors:**

Dr. Larry Banta  
*Caldwell ID*  
Dr. Gordon Bullock  
*Eugene OR*  
Marv Bullock  
*Phoenix AZ*  
Jim Fleming  
*Drain OR*  
Harold Gott  
*Grangeville ID*  
David Ladd  
*Bothell WA*  
Dan LeRoy  
*Eagle ID*  
Malcam Moberly  
*Bullhead City AZ*  
Steven Moreland  
*Kent WA*  
Andy Morris  
*Gooding ID*  
Tom Moyers  
*Grants Pass OR*  
Tony Nelson  
*Sandpoint ID*  
Dale Newberry  
*Meridian ID*  
Rick Page  
*Lewistown MT*  
Dennis Schuerman  
*Mead WA*  
Bruce Wheeler  
*Boise ID*  
Don Whitford  
*Everett WA*

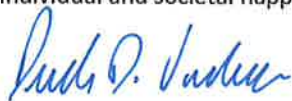
I'm writing to comment on the proposed legislation to amend Idaho Code 33-1604 concerning the Bible's role Public education. In response, I'd like to suggest that the Bible is simply good literature. The 40 different original authors wrote while living in different locations and times, over a span of 1500 years (1500BC-400BC; AD45-100), across 3 continents and in 3 languages (Koine Greek, Hebrew, Aramaic) to write about controversial subject matter. What we have today in the Bible is rendered as an accurate record of the original message through a plethora of literary forms. Some of the more prominent genres used in the Bible are legal literature, narratives, poetry, parable, letter and apocalyptic...with a whole host of sub-levels within each of these. To be exact, Leland Ryken offers a list of 280 different literary types in the Bible (A Complete Handbook of Literary Forms in the Bible, 2014).

In light of that, the Bible can be a tool to hone one's interpretive methodology. The Bible's historical accuracies require sound hermeneutics in order to really 'hear' what is being said in it. Reading the Bible requires critical thinking and analysis, both of the original historical situation of life that backdrops the 66 books therein, as well as the literary contextual flow of thought within each book. That demand alone makes the Bible a valid prospect for learning how to read and research well. Thus, the Bible aids in interpreting world history and the geo-political movements in each era as they overlap with Biblical events. It also addresses human behavior, as well as astronomical and natural phenomenon that sciences also validate. The Bible is helpful to understand all of life.

Because of the Bible's literary diversity it can aid any literature-based courses...from American Lit. to the Classics, to studying ancient Greco-Roman and Hebrew cultures via Greek and Hebrew manuscripts. Due to the literary diversity and precision of its rich historical tapestry, the Bible is something students of all ages could use to learn to read better. In fact, across the global continents today, the Bible is a common non-religious textbook for individual learning how to read, learn history, and think critically. Whether it is an elementary age student or a collegiate pursuing a bachelor's degree, the Bible offers both introductory and graduate level challenges for anyone on an excursion to learn.

The principles for life read in the Bible have served as the basis for the fabric of the American family and local governments for centuries. The virtues of life found in the Bible are moral and orderly guides for leaders at home, school, business and government. The Bible reveals how society ought to live in peace and harmony under the constructs God has laid for reasonable human governance. If one wants to understand the historical worldview of the framers of the U.S. Constitution, one would be wise to study the role the Bible played in shaping their understanding on the macro and micro principles of government as set forth in the Bible. Indeed, this book serves as the ideal for American citizens to exist and thrive together in society.

In short, offering the Bible in Idaho's academic scope and sequence of non-religious courses and competencies would parallel the fabric of our nation's endeavors for life, liberty and the pursuit individual and societal happiness under God.



Derek Voorhees, D.Min  
Professor of Bible, Theology, and Biblical Interpretation

AGENDA  
**SENATE STATE AFFAIRS COMMITTEE**  
**8:00 A.M.**  
**Room WW55**  
**Monday, February 29, 2016**

SUBJECT	DESCRIPTION	PRESENTER
VOTE ON GUBERNATORIAL APPOINTMENT:	The Gubernatorial Appointment of Michael Mark Mooney to the Idaho Energy Resources Authority.	
<a href="#">H 473</a>	RELATING TO THE MILITARY to remove a certain active member requirement.	Representative Kauffman
<a href="#">H 355</a>	RELATING TO THE IDAHO OFFICE OF EMERGENCY MANAGEMENT to replace any reference to the Bureau of Homeland Security with the Idaho Office of Emergency Management.	Captain Steve Stokes, Idaho Military Division
<a href="#">S 1234</a>	RELATING TO THE IDAHO ADMINISTRATIVE PROCEDURE ACT to remove reference to certain electronic copies.	Dennis Stevenson, Department of Administration
<a href="#">S 1357</a>	RELATING TO BINGO AND RAFFLES to provide revisions to multiple statutes to clarify charitable gaming laws and requirements.	Angela Vitek, Charitable Gaming Coordinator
<a href="#">S 1323</a>	RELATING TO THE IDAHO STATE INDEPENDENT LIVING COUNCIL to refer to a federal law instead of the Code of Federal Regulations	Senator Hagedorn
<a href="#">RS24491C1</a>	A JOINT MEMORIAL to direct the United States Department of State to take input from the states of the pacific northwest to receive and consider input regarding the Columbia River Treaty.	Senator McKenzie
MINUTES APPROVAL:	February 17, 2016	Senators Winder and Buckner-Webb

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman McKenzie  
Vice Chairman Lodge  
  
Sen Davis  
Sen Hill  
Sen Winder

Sen Siddoway  
Sen Lakey  
  
Sen Stennett  
Sen Buckner-Webb

COMMITTEE SECRETARY

Twyla Melton  
Room: WW42  
Phone: 332-1326  
email: sstaf@senate.idaho.gov

MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Monday, February 29, 2016

**TIME:** 8:00 A.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Lodge, Senators Davis, Hill, Winder, Siddoway, Lakey, Stennett and Buckner-Webb

**ABSENT/ EXCUSED:** None

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**VOTE ON GUBERNATORIAL APPOINTMENT:** Vote on the reappointment of Michael "Mike" Mark Mooney to the Idaho Energy Resources Authority.

**MOTION:** **Senator Buckner-Webb** moved to send the Gubernatorial reappointment of Michael "Mike" Mark Mooney to the Idaho Energy Resources Authority to the floor with the recommendation that he be confirmed by the Senate. **Senator Winder** seconded the motion. The motion carried by a **voice vote**.

**H 473** RELATING TO THE MILITARY to remove a certain active member requirement.

**Representative Kauffman**, District 25, stated that this year he was asked to serve on the Idaho Military Advocacy Commission (IMAC). At the first meeting he attended, IMAC discussed the 30-consecutive-day wait to be covered by the Uniformed Services Employment and Reemployment Rights Act (USERRA) when called to Idaho active duty. The purpose of **H 473** is to remove that requirement. Idaho law refers to federal law, which states that members are covered the first day they are activated. **H 473** would allow Idaho to conform to federal law and members would be covered on the first day of duty.

USERRA gives employees who leave a civilian job to perform military service the right to return to that civilian job with the rights of seniority, the right to purchase insurance and the right to purchase retirement.

**Senator Lakey** said he has always wondered why the 30-day requirement was in the Idaho statute.

**MOTION:** **Senator Lakey** moved to send **H 473** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion. The motion carried by a **voice vote**.

**H 355** RELATING TO THE IDAHO OFFICE OF EMERGENCY MANAGEMENT to replace any reference to the Bureau of Homeland Security with the Idaho Office of Emergency Management.

**Captain Steve Stokes**, Attorney Advisor to the Adjutant General, Idaho Army National Guard, referenced a line from Shakespeare's "Romeo and Juliet": "What's in a name? That which we call a rose by any other name would smell as sweet." Captain Stokes explained that they call the Idaho Bureau of Homeland Security the Bureau of Homeland Security and that conjures up images that do not accurately reflect what that agency does. The purpose of **H 355** is to correct misconceptions, align the agency name with its core functions and provide a

clear distinction between the federal Department of Homeland Security and the Idaho agency charged with emergency planning.

**Captain Stokes** reviewed the history and enumerated the functions of the Bureau of Homeland Security (Bureau). In 2004, S 1266, carried by Senator Davis, combined the Bureau of Hazardous Materials and the Bureau of Disaster Services to form the Bureau of Homeland Security and included reference to "acts of terrorism" and "homeland security." He clarified that the Bureau plans for and responds to manmade and natural disasters within the state of Idaho. There are images included in the PowerPoint presentation that demonstrate what the Bureau does (see attachment 1).

**Senator Hill** referred to section 22 that says that section 20 shall be null, void and of no force and effect on and after December 31, 2018. What is the purpose of section 22? **Captain Stokes** said he would research this.

**Chairman McKenzie** said this issue is addressed in another bill, **S 1212**, that they just ran that integrates the two emergency preparedness councils into one council.

**MOTION:** **Senator Hill** moved to send **H 355** to the floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion. The motion carried by a **voice vote**.

**S 1234** RELATING TO THE IDAHO ADMINISTRATIVE PROCEDURE ACT to remove reference to certain electronic copies.

**Dennis Stevenson**, Administrative Rules Coordinator, Department of Administration, stated that **S 1234** amends section 67-5205 of the Administrative Procedure Act to remove the provisions that the rules coordinator provide repositories with copies of the publications. He clarified that the publications are posted to a website for public access and that CDs will be provided upon request.

**MOTION:** **Senator Siddoway** moved to send **S 1234** to the floor with a **do pass** recommendation. **Senator Buckner-Webb** seconded the motion. The motion carried by a **voice vote**.

**S 1357** RELATING TO BINGO AND RAFFLES to provide revisions to multiple statutes to clarify charitable gaming laws and requirements.

**Angela Vitek**, Charitable Gaming Coordinator for the Idaho State Lottery Commission (Commission), stated that questions previously submitted by Senator Davis concerning **S 1357** were addressed and wondered if any further clarification was needed (see attachment 2).

**Senator Davis** noted that he appreciated the information Ms. Vitek had provided and most of his questions have been resolved. However, **Senator Davis** was unaware of a problem related to "perpetual raffles" and asked about the definition of "raffles" and requested more information about "perpetual raffles"; are problems with those limited to a particular region or is there a statewide problem? **Ms. Vitek** answered that they do have that problem but did not clarify whether it was regional or statewide. Some organizations are under the impression that they can have an unlimited amount of raffles per event; the Commission wants to restrict organizations to 12 raffles per year by statute. The language in the bill clarifies that intent and clears up any existing confusion.

**Senator Davis** questioned the statutory change and if it would allow for the electronic payment of prizes by those who run the bingo or raffle games. **Ms. Vitek** answered no; this does not allow for any type of electronic prize payment. **Senator Davis** referred to page 5 of the bill and quoted, "electronic bill payment from a bingo bank account may be used for bingo expenses upon state lottery



approval." **Ms. Vitek** indicated that would allow bingo organizations to use their bank account to pay business expenses electronically. She further stated that winners of a bingo game are paid by cash or check, which is an immediate payment.

**Senator Davis** asked if any bingo game player could use a card or a device as payment to play the game. **Ms. Vitek** indicated that one bingo hall is testing a debit/credit card system that could be used to participate in the game; this type of payment to play does not affect the payment of prizes. **Senator Davis** asked Ms. Vitek to show him where in the bill it prohibits electronic payment for prizes. **Ms. Vitek** stated that the bill enables bingo organizations to pay for business expenses out of their bank account. It is not intended for any kind of electronic transfer. The checks are made out and mailed from the bank. Bingo game winners expect an immediate payment, and most organizations pay in cash; they are allowed to pay by check from the bingo account in consecutive check numbers. Idaho Code § 67-7709(b) says that all prizes must be paid by consecutively numbered checks. **Senator Davis** noted that it says "funds" not "prizes." The worry is that a card can be used to get in to play and to get out of the game. **Ms. Vitek** referred Senator Davis to Idaho Code § 67-7709(1)(a) and read lines 18-28. **Senator Davis** pointed out the ambiguity in the language in that section.

**Senator Davis** inquired about the criminalization language in the legislation on page 9, lines 15-17. He reminded the Committee that there is a serious civil penalty already in code. Why is it a misdemeanor for failure to properly do paperwork? **Ms. Vitek** indicated that the language was suggested by the Attorney General's office. The language is in the bingo section and the desire was to carry the same language to the raffle section. She stated that, unfortunately, problems have occurred with people furnishing fraudulent information.

**Senator Davis** noted that the language was being removed in relation to duck races on page 8, lines 13-15. **Ms. Vitek** noted that raffles and duck races are in the same section; this is meant to apply to both duck races and raffles. The Attorney General's office considered this language redundant and inaccurate. She said that Tim Davis from the Attorney General's office may be able to speak more clearly on that issue.

**Senator Davis** thanked Ms. Vitek for her hard work.

**MOTION:**

**Senator Davis** moved to send **S 1357** to the floor with a recommendation that it be sent to the 14th Order for possible amendment. **Senator Hill** seconded the motion. The motion carried by a **voice vote**.

**S 1323**

RELATING TO THE IDAHO STATE INDEPENDENT LIVING COUNCIL (Council) to refer to a federal law instead of the Code of Federal Regulations.

**Senator Marv Hagedorn**, District 14, explained that **S 1323** is an administrative change rather than a policy change. The Council receives funds through various connecting paths that go through the Idaho Department of Health and Welfare (DHW). He stated that those are federal funds originating from the Rehabilitation Act of 1973. He explained that every time there is a re-appropriation of these federal funds, it is renamed and goes to the DHW and is distributed to various divisions. The Council then has to redo their contract with that particular organization, requiring revision of statute because it is a new Code of Federal Regulations (CFR) and the contractor has a different name. **Senator Hagedorn** stated that the objective of **S 1323** is to remove the CFR from statute and allow rules to address with whom the contract is made and under what CFR. That is a summary of the bill.

**Senator Hill** inquired how Senator Hagedorn was made aware of the need for this legislation. **Senator Hagedorn** indicated that Mel Leviton, Executive Director of the Council, contacted him.

**MOTION:**

**Senator Lakey** moved to send **S1323** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by a **voice vote**.

**PASSED THE  
GAVEL:**

Chairman McKenzie passed the gavel to Vice Chairman Lodge.

**RS 24491C1**

A JOINT MEMORIAL to direct the United States Department of State to take input from the states of the Pacific Northwest to receive and consider input regarding the Columbia River Treaty.

**Senator McKenzie** provided a brief background of the Columbia River Treaty, which is open for re-negotiation. Signed in 1961 and implemented in 1964, the treaty addresses flood control and hydroelectricity generation. **Senator McKenzie** stated that he was in Washington, D.C., lobbying for legislatures from the Pacific Northwest to continue the treaty, and to encourage input from the states. The Western Governors' Association has also looked at this issue. This joint memorial is asking the United States Department of State to consider the input of the states of Washington, Oregon, Idaho and Montana as negotiations move forward. If this Joint Memorial is passed, Senator McKenzie will bring it up to staff when he goes back to Washington, D.C., to lobby with the Pacific NorthWest Economic Region.

**Senator Stennett** applauded this effort. She said this is an important step.

**MOTION:**

**Senator Winder** moved to print **RS 24491C1**. **Senator Stennett** seconded the motion. The motion carried by a **voice vote**.

**PASSED THE  
GAVEL:**

Vice Chairman Lodge passed the gavel to Chairman McKenzie.

**MINUTES  
APPROVAL:**

**Senator Winder** moved to approve the minutes of February 17, 2016, as submitted. **Senator Buckner-Webb** seconded the motion. The motion carried by **voice vote**.

**ADJOURNED:**

There being no further business, **Chairman McKenzie** adjourned the meeting at 8:35 a.m.

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Senator McKenzie  
Chair

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Twyla Melton, Secretary

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Assisted by Marian Smith



## Introduction to HB 355

### BHS Name Change Proposal

Lieutenant Colonel Paul A. Boice, Staff Judge Advocate, IDNG  
Captain Stephen A. Stokes, Attorney Advisor to The Adjutant General

IDAHO NATIONAL GUARD  
OFFICE OF THE STAFF JUDGE ADVOCATE  
3882 W. Ellsworth Dr., Bldg. 440  
Boise, Idaho 83705  
208-272-5199

Idaho National Guard – Vigilant and Prepared



# Bottom Line Up Front



HB 355 amends many sections to replace “the Bureau of Homeland Security” with “the Idaho Office of Emergency Management”

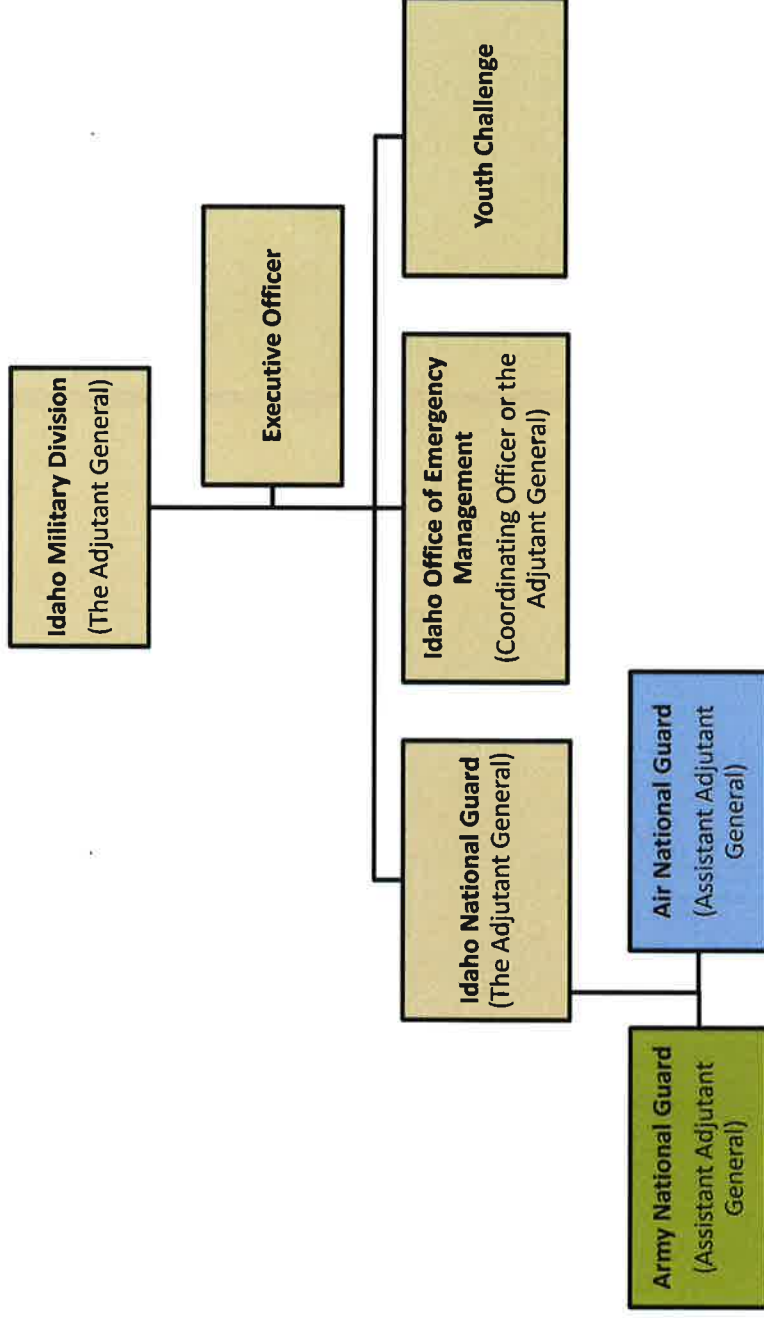
The purpose of HB 355 is to:

1. Correct general misconceptions about what the agency is in the minds of the public
2. Aligns the agency name with its core functions
3. Provides a clear distinction between the Federal Department of Homeland Security and the Idaho agency charged with emergency planning

Idaho National Guard – Vigilant and Prepared



# IMD Organizational Snapshot



Idaho National Guard – Vigilant and Prepared



# IOEM's 65-Year History

- 1951 – Civil Defense Council
- 1955 – Department of Disaster Relief and Civil Defense
- 1975 – Bureau of Disaster Services
- 2004 – Bureau of Hazardous Materials and Bureau of Disaster Services join to form the Bureau of Homeland Security
  - SB 1266
  - Incorporated and combined BHM and BDS
  - Included reference to “acts of terrorism” and “homeland security”
  - Carried by Senator Davis

Idaho National Guard – Vigilant and Prepared





# IOEM Functions

- Coordinates disaster response
- Maintains the Idaho Emergency Operations Center
- Assesses natural and man-made threats and hazards
- Equips and trains Idaho's first responders
- Maintains Idaho's emergency operations plan
- Acts as the administrative agent for emergency management and homeland security grants
- Is the designated homeland security advisor



Idaho National Guard – Vigilant and Prepared



# Justification for Name Change



- Corrects General Misperceptions
- Aligns agency name with its functions
- Provides distinction between federal DHS and Idaho's state organization



Idaho National Guard – Vigilant and Prepared



# QUESTIONS



Idaho National Guard – Vigilant and Prepared

- It appears to me that the proposed definition of charitable purpose is substantively identical to the definition being struck elsewhere. Is that an accurate understanding? If it deviates in any fashion, please identify the differences.

**-Yes we copy pasted the exact language and moved it to the definition section. This does not deviate at all.**

- Why is "gross revenue" being redefined? I do not understand why "gross revenue" would need to include "each ticket."

**-We are not redefining gross revenue, it's always included sales for each ticket. The reason for the clarification is organizations were getting confused as to what net total verses gross sales meant. Please see 67-7710 (3). This does not bring any change of any kind.**

- The definition of "raffle" appears benign, but why is the current definition inadequate?

**-To ensures compliance with the raffle limitation requirement set in section 67-7710 (2). This was written to eliminate the opportunity for perpetual raffles. Some organizations interpreted the current law to mean they were allowed to hold multiple raffles per event, and were going over the allotted 12 raffles per year. In other words some organizations wanted to hold unlimited raffles per event therefor bypassing the 12 raffles per year limitation. They believe they can hold twelve events with unlimited raffles at the event.**

- Does this bill attempt to alter the method that the lottery commission pays prizes, including electronically? If so, why?

**-No, the Lottery Commission is the regulatory agency only. We do not participate, manage, or influence in any manner in these games. We are only the regulatory agency that assures compliance.**

- Section 4 grants the electronic bill payment, which I initially thought dealt with the normal business expenses, but it appears to me that this language could be used to pay prizes, including at the time play. Please address whether this language is intended to have this application. If it doesn't, why was the language so broadly written?

**-This would not allow payment at time of play. This was written for business expenses only and does not include prizes. The organization still has to meet the requirements under Idaho Code 67-7709 (1)(b) by using a numbered check. This would only allow them to use an electronic check which is not instant and is a check generated at the bank and mailed to the payee.**

**This request came from Opera Idaho and other bingo organizations. The purpose of this change was to not only reduce the cost of repetitive bills by eliminating the check cost, and postage; but also as a convenience for the organization.**

- On page 8, why are you striking the last sentence of I.C. § 67-7710?

- : Tim Davis at the Attorney General's office indicated this was not necessary. The reason for striking that sentence is that he thinks it is inaccurate as it says raffles conducted lawfully pursuant to the chapter are not gambling under 18-3801. But they are. Charitable raffles are still gambling under definition of gambling, but it is legal authorized gambling under Article III, Section 20, Idaho Constitution. We just thought we could clean up that unnecessary, inaccurate language.

**Q: On page 9, why do you want to criminalize this conduct? Isn't the civil penalty at the bottom of page 15 sufficient? What is driving this criminal enhancement?**

**A: Tim Davis at the Attorney General's office recommended standardizing the penalties for any of these violations in charitable gaming. This language is currently in 67-7709(4) under the bingo section as well.**

- On page 9, why do you want to criminalize this conduct? Isn't the civil penalty at the bottom of page 15 sufficient? What is driving this criminal enhancement?

**-Tim Davis at the Attorney General's office recommended to standardize the penalties for any of these violations in charitable gaming. This language is currently under 67-7709(4) under the bingo section as well.**

- On page 10, why does the commission want to continue to allow an organization to share a license? It seems to me that language doesn't incorporate the duties of disclosure in the application for each chapter of the organization. The language only requires that the information required in subsection 2 is provided. So, if the initial license application contains the information of the applying organization, then subsection 3 has been satisfied. Nothing in subsection 3 requires the same information to be provided for the new chapter of the organization. Yes, I realize that is the current statutory standard, but we've goofed. If I'm reading it right, we should fix this for you.

**-I don't disagree, this has been a problem. At times, it has been difficult to verify information with the smaller groups running under the main licensee. The burden of proof has always fallen on the licensee to ensure the chapters are reporting and in compliance.**

**The other side of this, is if the chapters cannot hold raffles under the main licensee many will go unreported under Idaho Code 67-7713 which exempts licensure of any organization were the total market value of the prizes is under \$5,000.**

- Could you provide a side-by-side comparison of the struck suspension/revocation language with the proposed new suspension/revocation language?

**-This was 67-7712. We literally copy and pasted the exact same language starting with 67-7712 (2) under current code and place all of it under new section 67-7713A making it its own section. This is not new language.**



**AMENDED AGENDA #1**  
**SENATE STATE AFFAIRS COMMITTEE**  
**8:00 A.M.**  
**Room WW55**  
**Wednesday, March 02, 2016**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#"><u>RS24637</u></a>	UNANIMOUS CONSENT REQUEST from the Senate Education Committee related to public charter schools.	Blake E. Youde, Idaho State Board of Education
<a href="#"><u>H 447</u></a>	RELATING TO PUBLIC RECORDS regarding disclosure of any public record that contains sensitive information regarding critical infrastructure.	Will Hart, Executive Director, Idaho Consumer-Owned Utilities Association
<a href="#"><u>S 1354</u></a>	RELATING TO ALCOHOL BEVERAGE CATERING PERMITS authorizing catering permits for musical and cultural festivals.	Seth Grigg, Association of Idaho Cities
<a href="#"><u>H 389</u></a>	RELATING TO LIENS IN CROPS to state the contents of a notice of a claim.	Jeff Harvey, Secretary of State
<a href="#"><u>H 390</u></a>	RELATING TO ANNUAL REPORTS OF BENEFIT CORPORATIONS to remove an annual benefit report.	Jeff Harvey, Secretary of State
<a href="#"><u>S 1356</u></a>	RELATING TO ALCOHOL BEVERAGE CATERING PERMITS to allow a winery hosting an event to have a catering permit that will cover other wineries demonstrating their wines on the host's premises.	Roger Batt, Idaho Grape Growers and Wine Producers
<a href="#"><u>RS24633</u></a>	RELATING TO ELECTIONS to allow election judges to transmit election results electronically.	Senator Winder
<a href="#"><u>RS24642</u></a>	RELATING TO CONCEALED WEAPONS to make consistent state law regarding concealed weapons carry.	Senator McKenzie
MINUTES:	February 12, 2016	Senators Davis and Siddoway

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman McKenzie	Sen Siddoway
Vice Chairman Lodge	Sen Lakey
Sen Davis	Sen Stennett
Sen Hill	Sen Buckner-Webb
Sen Winder	

COMMITTEE SECRETARY

Twyla Melton  
Room: WW42  
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email: sstaf@senate.idaho.gov

MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Wednesday, March 02, 2016

**TIME:** 8:00 A.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Lodge, Senators Davis, Hill, Winder, Siddoway, Lakey, Stennett and Buckner-Webb

**ABSENT/ EXCUSED:** None

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**CONVENED:** **Chairman McKenzie** called the Senate State Affairs Committee (Committee) to order at 8:04 a.m. with a quorum present.

**RS 24637** UNANIMOUS CONSENT REQUEST from the Senate Education Committee related to public charter schools.

**Blake E. Youde**, Idaho State Board of Education (Board), presented **RS 24637** to the Committee. This RS addresses the replication of charter schools across the State and provides more transparency in regard to the contracts between education service providers, otherwise known as charter management organizations, and the charter holders themselves. A previous bill, **S 1337**, was related to same topic but there was language in that bill regarding the contracts between the service provider and the charter holder and how that contract would comply with the State purchasing contracts. That item raised significant questions regarding how charter schools can be treated as an independent nonprofit organization or as an organization that is part of a school district; organizations treated as school districts are considered political subdivisions. All of the stakeholders including the Board, agreed to meet over the summer and resolve this particular issue. The parties agreed to move forward with a bill that contains the parts that all stakeholders agrees on; **RS 24637** accomplishes that goal.

**Chairman McKenzie** restated that **RS 24637**, is an Unanimous Consent Request from the Senate Education Committee. It is a bill they have been working on but there were some parts that caused some controversy with the stakeholders. They are going forward with the parts that had consent from everyone and will work on the problematic issues over the interim.

**MOTION:** **Senator Hill** move to print **RS 24637**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

**H 447** RELATING TO PUBLIC RECORDS regarding disclosure of any public record that contains sensitive information regarding critical infrastructure.

**Will Hart**, Executive Director and Legislative Advisor, Idaho Consumer-Owned Utilities Association (ICUA), presented **H 447**. **Mr. Hart** introduced several guests who were with him including Rebecca Casper, Mayor of Idaho Falls; Jackie Flowers, General Manager of Idaho Falls Power; Randy Fife, City Attorney for Idaho Falls, Bear Prairie and the Assistant General Manager for Idaho Falls Power. In addition to representing all of the rural electric cooperatives in Idaho, ICUA represents nine municipal power companies: Albion, Bonners Ferry, Burley, Heyburn, Idaho Falls, Plummer, Rupert, Soda Springs and Weiser. These municipal power companies are required to comply with the State public request laws.

Currently Idaho Code § 74-105 only protects records disclosure where the custodian can prove that disclosure of sensitive records "would jeopardize the safety of persons or the public safety." **Mr. Hart** outlined three major problems with current law:

- 1.) It is an impossible burden on the custodian to prove what would jeopardize persons or the public safety. This proposal allows the custodian to withhold disclosure until they can determine if that disclosure could be used to jeopardize safety. The change would make it a practical and fact-based approach that is fair to the custodian, the public and the requester of the records.
- 2.) Current law does not protect property, only persons and safety. Items like blueprints for critical infrastructure are available where there is no proof that people would be injured. That could mean a building or bridge, a power line or dam, or a school out of session could be at risk.
- 3.) Most important, there is no current definition of "critical infrastructure" so there is no agreement or direction on what types of documents are exempt. The proposed definition will allow the custodian and requester to focus on "critical infrastructure" and eliminates arguments about what the exemption covers.

**Mr. Hart** listed the associations and entities that supported **H 447**. He noted that they recognize the importance of public access to information and, they believe that this is a minor and narrow exemption to the code to prevent the States critical infrastructure from potential physical and cybersecurity threats and does not put undue burden on the requester of the records.

The bill does not exempt budget information, monitoring or testing required by statute, adherence to safety audits, internal or external oversight or external or internal regulation. **Mr. Hart** continued to list what items would not be exempted. All the exemptions in the Public Records Law balance the public's right to know with other values important to the public.

**TESTIMONY:**

**Rebecca Casper**, Mayor of Idaho Falls, stated that this proposed legislation has great meaning for the City of Idaho Falls (City). **Ms. Casper** expressed full support of the State's many efforts to ensure that the people's work is conducted in the open. It is nearly always in the best interest of the public for the officials who serve the public to embrace openness and transparency. **Ms. Casper** restated "nearly always." There are already a few important exceptions to Idaho's openness requirements, such as judicial decision-making and some law enforcement records, juvenile records, custody records and corrections records. There are other exceptions known as "perfect openness" that could be certain confidential personnel matters, real estate purchase transactions and pending litigation legal matters. These exceptions to "perfect openness" have long been granted in Idaho State law for defensible and common sense reasons.

**Ms. Casper** provided a detailed description about how the open records laws operate. She explained the impetus behind this legislation from the City's point of view, given that they are also a utility. As such, they are required to follow many federal rules and regulations that ensure that the power they supply is reliable and delivered safely. In meeting these requirements, it is sometimes necessary to create records that apply to both physical and cyber infrastructure that could jeopardize millions of dollars of public infrastructure if those records fell into the wrong hands.

**Ms. Casper** noted that **H 447**, as written, retains the burden of the public agency to demonstrate why the public health and safety may be at risk. This legislation would provide a needed tool to sort out legitimate requests from potentially nefarious ones. It is not possible to mitigate or eliminate all risk; some risks are unknown and unknowable. However, when risk is known, then the guardians of public safety must

act. The City custodians know they have vulnerabilities and they have a good sense of what might be prudent to share, but right now they can't ask why and, even if they could, they couldn't say no. **Ms. Casper** asked for the ability to inject common sense into the way current open records laws apply when risks are involved.

**Wayne Hoffman**, President, Idaho Freedom Foundation, stated their opposition to **H 447**. **Mr. Hoffman** stated his history on both sides of this issue. In his tenure at the Department of Agriculture he served as Custodian of Records, where he had to review public records and decide whether documents should be disclosed or not. **Mr. Hoffman** provided examples of requests he would deny and provided the Committee with an example document that showed where certain items could be deemed exempt from disclosure (see attachment 1). It shows exactly what the language on page 2, lines 14-22 contemplates. That is his concern. **Mr. Hoffman** submitted some language that he thought would be appropriate and still allow some give and take. It is a very difficult area of public law. If the law is moved to far in the opposite direction, it will cause denial of requests from the government for basic information.

**Senator Davis** stated that much of the materials that have been provided to him centers around the word "could" in relation to the word "would." Nothing that has been provided speaks about the two-pronged nature of this language. In reference to the "critical infrastructure," which is a defined term, page 2, line 20, indicates that the "incapacity or destruction" would have a debilitating impact. An entity that did not want to disclose would have to satisfy: Would it have? The next question is: Could it be used to jeopardize? **Mr. Hoffman** responded that when he looks at this language, he thinks that there is no question that a custodian of record would look at a simple document and think that it is exactly the type of infrastructure that is being used and where it is located; if people see that information, they could go there and cause irreparable harm to public safety.

**Senator Davis** asked if you first have to clear the "would" before you can get to the "could." **Senator Davis** seeks understanding of the bill and he indicated Mr. Hoffman wants to attribute motive. Focus should be on the words, not the motives. The definition section, a portion of ILines 17-18, says that the "would" must be proven before going on the lines 20-21 to get to the "could." How does the "would" and the "could" work together? **Mr. Hoffman** indicated that the word "would" is stricken out on line 9 and the word "could" is inserted. In this context, the word "could" means that the custodian would have to use his/her imagination about whether the disclosure of information "could" be used to jeopardize the safety of persons or property or public safety. **Senator Davis** explained how he arrived at his ultimate conclusions. **Mr. Hoffman** used a previous example to determine if knowing certain information can be used to jeopardize the critical infrastructure and would it have a debilitating effect on security or safety. **Mr. Hoffman** continued to give scenarios of what could happen if a custodian enforced the exemptions.

**Seth Grigg**, Executive Director, Association of Idaho Cities (Association), distributed a letter of support from the Association of Idaho Cities (see attachment 2). This legislation was voted to be a priority for the session. Cities manage a vast amount of critical public works infrastructure in the State, and this legislation strikes an appropriate balance in protecting the safety of that infrastructure and the safety of the public at large.

**Betsy Russell**, President, Idaho Press Club, stated that they stand in opposition to **H 447**. **Ms. Russell** addressed Senator Davis' question about "would" on line 20, page 2, of the bill. That "would" says the incapacity or destruction of such a system or asset would have a debilitating impact on economic security and safety. That "would" says if this entire system were destroyed, it would have impact. **Ms. Russell** focused on line 9, page 2, and suggested striking "could be used to" and

add "s" to the word "jeopardize." Then discussion would be about information, the release of which jeopardizes public safety. **Ms. Russell** suggests that **H 447** be held in Committee or sent to the 14th Order with the changes she presented.

**Senator Davis** asked what the Newspaper Association's position is on the bill. **Ms. Russell** said the Newspaper Association is neutral and is not represented at this hearing. **Senator Davis** said that "would" on line 9 suggests a knowing standard. A custodian would have to know of a terrorist attack before they could begin to use the language. **Senator Davis** acknowledged Ms. Russell's point on the "could be used," but the "would" requires a standard that the government may not be able to meet; that is the genesis of the problem. Why wouldn't the knowing standard provide the type of meaningful protection that should be in place for the State's public policy? **Ms. Russell** responded that by taking out the "would," the bill would just say "information, the disclosure of which jeopardizes public safety." It would then be exempt from disclosure.

**Senator Davis** asked what would be the standard? **Ms. Russell** answered by example. If a records request was submitted for the locking codes for State prisons, it is clear that disclosure of that information jeopardizes public safety and that information would be exempt from disclosure under the wording Ms. Russell has suggested.

**Senator Lakey** inquired if the city, when deciding whether or not to release the information, would be the one to reasonably determine whether the information would jeopardize public safety. If the person requesting the information disagrees with that decision, would they seek to overturn that determination of jeopardy to public safety. **Ms. Russell** said that if the requester disagreed with the decision, they could go to court and challenge it. The judge would decide if the situation fits the exemption. That is the sole remedy when a citizen has received a rejection to a public records request.

**Senator Hill** asked if Ms. Russell had seen Mr. Hoffman's proposed amendment. Is that something that would get past the "would" and "could" dilemma? **Ms. Russell** said she reviewed it briefly. The proposed amendment focuses on narrowing down the definition and she has no problem with that. However, the most important thing is dealing with page 2, line 9, "could be used to."

**Dan Blocksom**, Policy Analyst for the Idaho Association of Counties, said that the counties are in support of this legislation. This legislation applies to the counties because they operate jails and dispatch centers. If information on infrastructure fell into the wrong hands, it could be problematic for the safety and security of the jails and dispatch centers.

**Senator Davis** asked if Randy Fife, City Attorney for the City, would yield to some questions. **Mr. Fife** agreed. **Senator Davis** stated that striking "would" and only having the word jeopardize provides more discretion to the City. Does it create some vacuum in providing legal counsel that is problematic? **Mr. Fife** responded in the affirmative. That proposal does nothing because it just shifts the verb from "would" to "jeopardizes." The standard is still that the custodian would need to show that the request jeopardizes by its release. There is also a legal issue as to whether or not the document is what jeopardizes the critical infrastructure.

**Mr. Fife** referred to the earlier conversation about the "would" related to critical infrastructure. It is Mr. Fife's understanding that the way Idaho law works is that a requestor can request any public document and the default is that the requestor gets the public document. That is the way it should be without questioning why they want the document or who they are when they make the request. All documents are public unless there is an exception. The Idaho Supreme Court has said that all exceptions are to be read narrowly. The analysis has to be on what the exemption

means. Is it critical infrastructure? If not, the requestor gets the document. **Mr. Fife** discussed this in detail.

**Senator Davis** asked if Mr. Fife had seen Mr. Hoffman's proposed language. **Mr. Fife** responded in the affirmative and said there is a problem. There is a provision in the State Public Records Law that allows someone to obtain a document if they don't have the resources to do it. As a judge tries to make an interpretation, will he or she be mixing up the balance for an indigent requestor with what is available in the code? Mr. Hoffman's change is unnecessary because it is already built into the fabric of the Public Records Law.

**Senator Davis** admitted that the "could be used to" standard is a broad standard. He agrees that the current "would" jeopardize is an unrealistic standard because of the requirement inflicted on the custodian. There is not a reasonableness standard in **H 447**. There is not a check that says "just because you think it doesn't make it so." **Senator Davis** wants to have a policy that protects the City. **Mr. Fife** responded that it would be up to the Legislators to determine what is the appropriate standard to balance the public's right to be safe with the public's right to know; that is what the exemptions do. The standard should be somewhere between "could," which is a possibility, or "would," which is a certainty.

**Senator Hill** asked how Mr. Hoffman's amendment would or could hurt this legislation. **Mr. Fife** said that when good legislation is written, it is clear and parties understand what the expectations are; both the requestor and the custodian need to understand what the judge could look at or what the dialogue should be regarding the records. **Mr. Fife** explained what he thought were types of records that would be requested. **Senator Hill** noted that the words were being analyzed rather than looking at the concept. Is the legislation about concept; is it a valid addition that would or wouldn't be valuable? **Senator Hill** said he didn't disagree with anything Mr. Fife has said.

**Senator Stennett** commented that Mr. Fife had mentioned that public records are something that would be given out upon request. Some of those that wouldn't be given out would be narrowly construed. There is nothing in this legislation that can be narrowly construed. "Could be used to" is not narrowly construed. Where are the changes in this legislation the shows where it would be on a limited basis and narrowly construed. **Mr. Fife** responded that this document doesn't speak to that because the Idaho Supreme Court has said in numerous cases, that the public has the right to know and that documents are public. Any exemption must be narrowly construed when interpreted by the custodian because the burden is on the custodian to react to the request, and by the courts that assess whether or not those documents should have been given. All documents are public unless there is an exemption.

**Senator Stennett** asked where, in the initial rejection or acceptance of a request, is the determination made about whether or not the document is released. **Mr. Fife** explained how the process works and what the basic functionality is when a request is received. All instructions are in State code. **Senator Stennett** observed that it is a lengthy process to deal with public records. The reason this legislation is being considered is because of someone's willfulness to attack or cripple the system. It is difficult to understand why someone would go through such a long process in order to do harm.

**Mr. Hart** addressed Senator Stennett's question. Changing the "would, " which is almost impossible to meet, to the "could" is being tied to what, in Mr. Hart's belief, is a specific definition of critical infrastructure. Those changes are being balanced. **Mr. Hart** said they had a broad group of stakeholders working on this legislation. The Idaho Newspaper Association, which represents the publishers, helped write the bill but took a neutral position. **Mr. Hart** listed supporters of this bill. **Mr. Hart**



stated that the supporters of the bill recognize the importance of public access to information. This narrow exemption to the code is vitally important to prevent critical infrastructure from potential physical and cybersecurity threats and does not place an undue burden on the public.

**Senator Davis** observed that the "would jeopardize" standard requires a knowing standard that is an impossible standard for city to meet. He is troubled by the "could be used to" standard. **Senator Davis** finds great value in the definition and "would have debilitating impact" and Ms. Russell's explanation of how that would incorporate into the "could be" standard is a fair reading of the bill.

**Senator Davis** expressed his desire to resolve the concerns with this bill and possibly hold it in Committee until the next meeting date. **Senator Hill** was not aware of a lot of disagreement about the ultimate goal of the legislation. Interest has been expressed in as much openness and transparency as possible while at the same time no one is interested in jeopardizing security.

**Senator Lakey** agrees that the "would" standard is unworkable but "could be used to" doesn't promote accountability. If there was a challenge or denial, the court would look at "could it be used" and that reasonableness aspect provides some accountability to the evaluation of the request that the court could apply to the initial determination. **Senator Lakey** would be inclined to insert the reasonableness standard. That would help encompass those requests that do relate to documents that wouldn't lead to jeopardizing public safety. He appreciates the inclusion of the critical infrastructure definition.

**UNANIMOUS  
CONSENT  
REQUEST:**

**Senator Davis** asked for an Unanimous Consent Request to hold **H 447** subject to the call of the chair in the hope of finding acceptable language before days end.

**Chairman McKenzie** stated that seeing no objection to the Unanimous Consent Request, **H 447** will be held subject to the call of the Chair. He stated his appreciation for the work that has gone into this legislation.

**Senator Siddoway** stated his appreciation about the discussion on the "would" and the "could." He is concerned with the inclusion of the telecommunications and related systems. **Senator Siddoway** didn't think that the physical structures needed to be included with this bill.

**S 1354**

RELATING TO ALCOHOL BEVERAGE CATERING PERMITS authorizing catering permits for musical and cultural festivals.

**Seth Grigg**, Executive Director, Association of Idaho Cities, explained that the organization he represents seeks the Committee's consideration of **S 1354**. Idaho law grants cities and counties the authority to issue alcohol catering permits for special events. Those permits are limited to a three-day duration. Many cities around the State have events and activities that last beyond three days; some are week-long events. **Mr. Grigg** explained the convoluted process to provide catering services for those longer events. This bill seeks to remedy some of those issues by proposing to extend the time limit of those permits from three days to five days with the option of a one-time renewal of up to an additional five days. The terms of issuing the permit are at the express wishes of the local governing body. **Mr. Grigg** named the organizations that were included in the development of this legislation.

**Senator Davis** asked if Mr. Grigg had seen the letter from the City of Lewiston. **Mr. Grigg** responded in the affirmative. There have been discussions with the City of Lewiston to address their concerns. Those have not been fully resolved. There were three concerns: 1.) Relating to the option of extending a permit for up to five days. They thought the language was ambiguous and would present difficulties in making a determination. It is not appropriate in this bill because that is a local issue.

2.) There was a concern regarding the timing for an extension request. That process should be brought up by the governing entity at the beginning of the event.  
3.) The bill does not allow for a fee increase for additional administration and enforcement expenses. **Mr. Grigg** said that the fee item could be addressed in the future. These concerns can be resolved by the jurisdiction with the ordinances that they enact that authorize the permitting to occur.

**MOTION:** **Senator Davis** moved to send **S 1354** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

**H 389** RELATING TO LIENS IN CROPS to state the contents of a notice of a claim.

**Senator Davis** referred to Article 9 of the Uniform Commercial Code (UCC) and stated that this is the section that provides and defines the relationship between a debtor and a creditor as it relates to a lien holder security interest in personal property; tangible and intangible, including farm crops. **Senator Davis** recalled that in the past, a UCC-1 was recorded in every county where the farmer was farming or had crops stored. Those transactions were set aside by bankruptcy court judges because they filed in all of the right counties. A previous Legislature changed the process to a central filing system and now a UCC-1F is used. Using that information as background, then one must look at Title 45 which includes a "Notice of Claim of Lien." **Senator Davis** indicated that this is some of the information that needs to be reviewed when looking at the claim of lien on the standard form prescribed by the Secretary of State. When Mr. Harvey makes his presentation on the bill, the only question **Senator Davis** has is in reference to page 2, lines 10-12. If the Secretary of State deems that it satisfies the requirements, does this have some binding judicial impact? If the Secretary of State says its good, then the courts have to say it's good.

**Jeff Harvey**, UCC Supervisor, Office of the Secretary of State, indicated that everything Senator Davis has presented is exactly correct. The reason for this bill is because there is a language discrepancy between Title 45, Chapter 3, and Title 28, Chapter 9, which is the UCC. There was a vast update of the UCC in 2001 known as the Revised Article 9. That defines how secured transactions are handled. Title 45, Chapter 3, is specific to liens for crops, for seed or for farm labor. For the past 15 years, people have been asked to file a "Notice of Lien" on crops or farm labor. The new language in Title 45, Chapter 3, had been overlooked, and a "Notice of Lien" is not equivalent to a financing statement or a farm products financing statement. The intent of the language in **H 389** is to bring those two sections together so they function equally.

**Mr. Harvey** said that Title 45, Chapter 3, specifically states that under the UCC, a lien in crops is considered an agricultural lien and any discrepancy between Title 45, Chapter 3, and Title 28, Chapter 9, will defer to Title 28, Chapter 9, in the UCC. In Title 28, Chapter 9, the UCC requires that an agricultural lien must file a financing statement. Financing statements have not been filed; there have only been notices of a lien. This change is creating an equivalency between the two. The language used to draft **H 389** is similar to the same steps taken in Texas. **Mr. Harvey** has presented this bill to numerous stakeholders, the major lien filers and others with no resistance, and most are supporting the bill.

**MOTION:** **Senator Siddoway** moved to send **H 389** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

**H 390** RELATING TO ANNUAL REPORTS OF BENEFIT CORPORATIONS to remove an annual benefit report.

**Mr. Harvey** explained that in 2015, the Legislature created the Idaho Benefit Corporation Act, which is a corporation that is empowered to use part of its

resources to create a public benefit beyond their duty to their shareholders. As part of this new

law, it is required that these benefit corporations file an annual benefit report with the Secretary of State's office. In addition to maintaining the report in perpetuity on their website they must provide it to anyone who asks for a copy and automatically send a copy to all of their shareholders. The filing with the Secretary of State is inconsistent with the filings of other entity types. No other business entity type is required to file any kind of documentation of this sort. When a corporation files its registration with the Secretary of State, it is simply a name, who the officers are, who the registered agent is and how many shares they are holding. The filing required of the Idaho Benefit Corporations is inconsistent. The Secretary of State's office is asking that the filing stipulation be removed.

**Senator Winder** thanked Mr. Harvey for his presentation. The most important parts of the presentation are that they used a national template to initiate the Idaho Benefit Corporation Act. The reporting provision is exceptional to anything else in the State.

**MOTION:** **Senator Winder** moved to send **H 390** to the floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

**S 1356** RELATING TO ALCOHOL BEVERAGE CATERING PERMITS to allow a winery hosting an event to have a catering permit that will cover other wineries demonstrating their wines on the host's premises.

**Roger Batt** spoke on behalf of the Idaho Grape Growers and Wine Producers to present **S 1356**. **Mr. Batt** said currently, if two or more wineries wish to serve and sell their respective wines at an event, that event has to be sponsored by an organization, group or political subdivision, and the winery is prohibited from being a sponsor of an event.

**Senator Davis** stated his belief that, since Mr. Batt explained this bill fully at the print hearing and anticipating identical testimony, he is inclined to make a motion.

**MOTION:** **Senator Davis** moved to send **S 1356** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

**RS 24633** RELATING TO ELECTIONS to allow election judges to transmit election results electronically.

**Senator Winder** reminded the Committee that there were other related bills on the floor of the Senate. This bill is a clean up of a problem that is in current code requiring the election judges to actually post the results of the election at the polling place. This legislation would modernize the code to allow for transmittal of a copy electronically.

**MOTION:** **Senator Siddoway** moved to send **RS 24633** to print. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

**PASSED THE GAVEL:** Chairman McKenzie passed the gavel to Vice Chairman Lodge. **Vice Chairman Lodge** introduced the next item on the agenda.

**RS 24642** RELATING TO CONCEALED WEAPONS to make consistent State law regarding concealed weapons carry.

**Senator McKenzie** related that **RS 24642** is language that deals with the concealed carry; § 18-3302, Idaho Code. This bill makes the concealed carry law consistent between counties and cities. Currently, outside city limits if you are not prohibited from possessing firearms, a person can carry a concealed weapon. On page 2, line 21, a section is added that says someone over the age of 21, a resident of Idaho and not disqualified from being issued a license under subsection 11 can

conceal carry a weapon within the city limits. Section 11, Idaho Code, contains all the grounds where a county sheriff would not issue a concealed weapons permit. **Senator McKenzie** listed all of those items from page 4, lines 27-49, and page 5, lines 1-22.

**Senator McKenzie** said that the only other change is on page 8, lines 3-18, regarding prohibited conduct. The language is left as it is in current code and added the reference to the new section, section 18-3302 (4) (f), and added an exception to where there is limited carry, indicated on page 8, lines 7-18. The language reflects the intended policy.

**Senator Hill** asked if any of the new language supersedes prior law related to college campuses and those requirements. **Senator McKenzie** responded no. The clarification is on page 8, lines 13-14. It wouldn't supersede the category of persons who could carry.

**MOTION:** **Senator Lakey** moved to send **RS 24642** to print. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

**PASSED THE GAVEL:** Vice Chairman Lodge passed the gavel to Chairman McKenzie.

**MINUTES APPROVAL:** **Senator Siddoway** moved to approve the Minutes of February 12, 2016. **Senator Hill** seconded the motion. The motion carried by **voice vote**.

**COMMITTEE AT EASE:** The Committee went at ease.

**Chairman McKenzie** welcomed the government class from McCall High School. **Chairman McKenzie** reminded the Committee that the joint meeting with the House Environment, Energy & Technology Committee would be today at 1:30 p.m. in the Lincoln Auditorium.

**Chairman McKenzie** explained to the audience that the Committee was at ease to address an earlier bill, **H 447**, related to government entities' disclosure of public records. Committee members asked the stakeholders involved to resolve some disputed language and they are getting an update to see if the changes can be addressed at the next Committee meeting in preparation for the amending order.

**Senator Winder** stated that they had resolved the issue.

**ADJOURNED:** There being no further business, **Chairman McKenzie** adjourned the meeting at 9:55 a.m.

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Senator McKenzie  
Chair

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Twyla Melton  
Secretary

447  
 Wayne Hoffman  
 Attachment 1  
 3/2/16

# B7 Form

## FORM B7: ONE-TIME OPERATING EXPENDITURES & ONE-TIME CAPITAL OUTLAY SUMMARY

Agency/Department: MILITARY DIVISION  
 Program (If applicable):

Request for Fiscal Year: 2017

Agency Number: 190

Function/Activity Number:

Original Request Date:  
 September 1, 2015

Revision Request Date:

Page:  of

Priority Order	Program	DU	Fund	Sub-object Code	Item/Description	Mileage	Date Acquired	Quantity In Stock	Request Quantity Desired	Request Unit Cost	Request Total Cost
1	01	10.31	0001-00	6411	Gowen Core Router		2006	1	1	35,000	35,000
2	01	10.31	0001-00	6411	Gowen Core Switch Stack		2006	1	1	52,000	52,000
3	01	10.31	0001-00	6411	Wireless Access Controller		2008	1	1	20,000	20,000
4	01	10.31	0001-00	6410	Radio Programming Laptops		2010	18	6	5,000	30,000
6	01	10.31	0001-00	6411	Gowen WiFi Access Points		2006	10	5	4,000	20,000
7	01	10.31	0001-00	6499	Scorn Gowen LAN Switch		2006	6	3	3,500	10,500
8	01	10.31	0001-00	6411	Gowen Building 616 Router		2008	1	1	4,000	4,000
9	01	10.31	0001-00	6499	Server Room UPS		Various	4	2	5,000	10,000
10	01	10.31	0001-00	6411	Gowen Wire Room UPS		2007	4	1	5,000	5,000
11	01	10.31	0001-00	6411	Gowen Server Rack and PDUs		2003	3	1	5,000	5,000
12	01	10.31	0001-00	6410	Laptop Computers		2011	10	2	2,000	4,000
13	01	10.31	0001-00	6410	Desktop Computers		Various	34	10	1,095	11,000
5	06	10.31	0001-00	6410	Boise Office Personnel Laptops		Various	43	3	2,000	6,000
1	06	10.31	0450-00	6899	Microwave Battery Banks for Mountain Top Power		1998-2002	62	5	17,000	85,000
2	06	12.01	0450-00	6860	Emergency Data Network Routers		New	19	2	25,627	51,300
3	06	10.31	0450-00	6630	Vehicle Replacement	113,222	2005	17	1	30,000	30,000
3	06	10.31	0450-00	6630	Vehicle Replacement	101,396	2006	17	1	30,000	30,000
4	06	10.31	0450-00	6860	Microwave Equipment (Lewiston)		Varies	75	2	70,000	140,000
5	06	10.31	0450-00	6860	Microwave Equipment (Doe Point)		Varies	75	1	85,000	85,000
6	06	10.31	0450-00	6899	T-1 and GPS Test and Calibration Equipment		Varies	17	7	7,000	49,000
7	06	10.31	0450-00	6860	Emergency Data Network Edge Routers		2008	60	10	4,000	40,000
8	06	10.31	0450-00	6860	Emergency Data Network Route Reflectors		2006	3	3	8,500	25,500
9	06	10.31	0450-00	6860	Emergency Data Network Routers #2		2010	19	2	25,627	51,300
Subtotal of filtered items											\$799,600
Grand Total by Program											\$799,600
	01										206,500
	06										593,100
Grand Total by Decision Unit											\$799,600
		10.31									748,300
		12.01									51,300
Grand Total by Fund Source											\$799,600
			0001-00								212,500
			0450-00								587,100
Grand Total by Category											\$799,600
				6410				500	71		\$799,600
				6411				105	21		51,000
				6499				21	11		141,000
				6530				10	5		20,500
				6860				34	2		60,000
				6899				251	20		393,100
								79	12		134,000



**Association of Idaho Cities**  
3100 South Vista, Suite 310, Boise, Idaho 83705  
Telephone (208) 344-8594  
Fax (208) 344-8677  
[www.idahocities.org](http://www.idahocities.org)

H 447  
Seth Grigg  
Attachment 2

**March 2, 2016**

**To: Members of the Senate State Affairs Committee**

**From: Seth Grigg, Executive Director**

**RE: Association of Idaho Cities Supports House Bill 447 on Sensitive Records Security**

The Association of Idaho Cities supports House Bill 447 on sensitive records security for public infrastructure.

Cities oversee critical water, sewer and power infrastructure and systems, and protecting these assets is critical for the security of Idaho communities.

House Bill 447 will provide much needed clarity for records custodians, the public and the media concerning what records are and are not available for public disclosure.

We believe this legislation strikes the right balance between the rights of citizens and the media to access public records, and the need to protect the security of vital public infrastructure.

We appreciate your consideration of this bill and urge your support.



**AMENDED AGENDA #1**  
**SENATE STATE AFFAIRS COMMITTEE**  
**AND**  
**HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE**  
**1:30 P.M.**  
**Lincoln Auditorium-WW02**  
**Wednesday, March 02, 2016**

SUBJECT	DESCRIPTION	PRESENTER
	New Vision and Strategy Positions INL to Be Relevant to Tomorrow's Energy Future.	Dr. Mark Peters, Director, Idaho National Laboratory
	The Liquid Fluoride Thorium Reactor at the INL	Kirk Sorensen, President and Chief Technologist, Flibe Energy

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman McKenzie  
Vice Chairman Lodge  
  
Sen Davis  
Sen Hill  
Sen Winder

Sen Siddoway  
Sen Lakey  
  
Sen Stennett  
Sen Buckner-Webb

COMMITTEE SECRETARY

Twyla Melton  
Room: WW42  
Phone: 332-1326  
email: sstaf@senate.idaho.gov

MINUTES  
JOINT MEETING  
**SENATE STATE AFFAIRS COMMITTEE**  
**HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE**

**DATE:** Wednesday, March 02, 2016

**TIME:** 1:30 P.M.

**PLACE:** Lincoln Auditorium - WW02

**MEMBERS PRESENT:** Chairman McKenzie, Senators Davis, Hill, Winder, Lakey and Buckner-Webb

Chairman Thompson, Vice Chairman Anderst, Representatives Raybould, Hartgen, Vander Woude, Nielsen, Anderson, Mendive, Trujillo, Beyeler, Chaney, Nate, Smith, Rusche, Jordan (5) and Rubel

**ABSENT/ EXCUSED:** Vice Chairman Lodge and Senators Siddoway and Stennett; Representative Scott

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**CONVENED:** **Chairman Thompson** called the Joint Meeting of the Senate State Affairs Committee and the House Environment, Energy, & Technology Committee (Committees) to order at 1:30 p.m.

**MINUTES APPROVAL:** **Representative Anderst** moved to accept the House Environment, Energy, & Technology Committee minutes of February 24, 2016, as written. The motion carried by a voice vote.

**Chairman Thompson** introduced Dr. Mark Peters, the new Director of Idaho National Laboratory (INL), and welcomed him and his family to Idaho.

**PRESENTATION:** **Dr. Mark Peters** presented an update on the vision and strategy for the INL and provided a sampling of some of the important programs they are working on. **Dr. Peters** emphasized the importance of the partnership with the State and how that partnership affects economic development, investment in education and other important initiatives. The INL is the lead laboratory for nuclear energy research and development demonstration projects for the United States. The INL is working with industry to sustain the white water reactors in the U. S.; 99 reactors produce about 20 percent of the nation's electricity. An important part of the INL mission is to solve the spent fuel challenge that the nation faces so they can move forward with nuclear in a meaningful way. The material is being stored onsite at nuclear reactor power stations. INL also does the research and development and hopefully, ultimately, the deployment of a disposition path for spent fuel at a national repository(s).

**Dr. Peters** spoke about the existing fleet of reactors that will be retiring beginning in 2030 and how they will be replaced. It is important to know what the next generation of nuclear reactors will look like and have them commercially available by 2030. He explained that INL is working on other forms of energy besides nuclear and spoke of three areas of excellence that are the pillars of focus: biomass for fuel, advanced transportation/advanced batteries for grid storage to bring renewables to transportation infrastructure, and natural gas infrastructure. Those are areas through which the INL thinks they can change the nations future.

**Dr. Peters** spoke about the recently released Gateway for Accelerated Innovation in Nuclear (GAIN). It takes advantage of what INL and its partners can bring to industry to fast-track the pace in which they deploy next generation nuclear. He encouraged the State to take advantage of new energy concepts and stated that small modular reactors (SMRs) will be a step in the future of nuclear energy supported by INL.

**Dr. Peters** itemized global security challenges in context with recent cybersecurity and infrastructure threats. He explained how INL can facilitate research on various clean energy alternatives and that they are a participant in the Center for Advanced Energy Studies (CAES). **Dr. Peters** enumerated the benefits of the INL site in testing products as well as providing increased employment opportunities. He listed industry benefits in the State that can be credited to INL and noted there is significant growth projected over the next five years. He encouraged working with industry to get products to market and promote science, technology, engineering and math (STEM) education to match workforce needs through partnerships with Idaho universities. **Dr. Peters** emphasized INL's desire to further build its relationship with the State. (see attachment 1)

**Dr. Peters** introduced the members of his staff who were in attendance: Amy Lientz, Director of Partnerships, Engagement and Tech Deployment; John Revier, Director of State and Regional Government Affairs; and Cory Taile, a recent addition to the INL staff as a writer, formerly with the Post Register.

**Representative Thompson** inquired about the negotiations on research quantities. **Dr. Peters** answered that there were two shipments and that INL is currently dealing with the second shipment from a power plant in Illinois. He stated that there are daily discussions between the Department of Energy (DOE) and the Attorney General's office. **Representative Thompson** stated that the desire of the Legislature is to assist in whatever way they could. He stated that the research quantity project will open the door for significant dollars, which would benefit Idaho.

**Representative Rusche** stated his appreciation for the focus in the presentation about the laboratory but that his constituents' main concern is that of nuclear waste and asked for the status of that issue. **Dr. Peters** clarified that he represents the INL laboratory, not the cleanup. However, he reviewed processes and challenges involved in cleanup.

**Representative Anderst** referred to the revenue breakdown and asked about the stability of revenue through the years. **Dr. Peters** indicated that since the recession, INL revenue has recovered. **Ms. Lientz** stated that the recession in 2008-2009 reduced the budget, which led to a reduction in staff, but the INL is recovering. Funding from the federal government occurs every two years, so that affects budget projections, but they are close to being at the level they were prior to 2008.

**Representative Nielsen** inquired if INL is prepared for an electromagnetic pulse (EMP). **Dr. Peters** said that INL has done an analysis of the potential impacts and understands what would happen in case of an EMP attack. They are in the assessment phase and there is more to do.

**Senator Hill** talked about the relationship between Idaho and INL. Is education the area where the Legislature could help the most to advance the INL's goals and objectives. Are there other areas in which the Legislature could be more helpful? **Dr. Peters** concurred that promoting education through the CAES and STEM is great but encouraged taking advantage of promoting a clean energy future and attracting industries to the State that will enable that clean

energy future. He asked the Legislature start the conversation about how to do a better job to attract clean energy industries to the State. **Senator Hill** asked about INL's relationship with Idaho universities. **Dr. Peters** answered that Idaho universities are very cooperative with INL. The presidents reached out to Dr. Peters and there have been curriculum changes.

**Representative Trujillo** asked how the Idaho Global Entrepreneurial Mission (IGEM) program is working and asked if the Legislators could help. **Dr. Peters** asked Ms. Lientz to answer. **Ms. Lientz** indicated that the INL is represented on the board of IGEM and when INL promotes partnerships with universities, a win-win scenario is created for future opportunities.

**Representative Harkin** stated that there are comments criticizing industries within the State for not being futuristic employers and he wondered what Dr. Peter's observations have been. **Dr. Peters** answered that most young people and young families from out-of-state don't appreciate the advantages of living in Idaho and encouraged more publicity for Idaho.

**Representative Nielsen** inquired if a method of converting quantities of spent nuclear fuel to a biodegradable form had been discovered through research. **Dr. Peters** asked if what Representative Nielsen was referring to was the reprocessing of spent fuel. **Representative Nielsen** replied yes. **Dr. Peters** explained that the reprocessing would not be done at INL but the research that would enable this option is being conducted at INL.

**Representative Anderst** asked if Dr. Peters was having a difficult time recruiting employees. **Dr. Peters** answered that positions are able to be filled and in most cases there is a good candidate pool; occasionally candidates are not available.

**Representative Anderst** asked if there could be a collaborative effort between INL and the State to fill positions. **Dr. Peters** explained that many positions are filled by candidates from outside of the State. He said he would like to see more candidates from Idaho; INL is currently working with the Commerce Department as well as the universities to attract candidates.

**Senator Winder** wondered if there would be chances for INL to partner with medical research given the fact that there now would be a medical school in Idaho. **Dr. Peters** indicated that President Vaillis at Idaho State University (ISU) has already been talking to INL about medical research.

**Representative Nate** inquired if INL is a public government agency or a private business corporation. **Dr. Peters** explained that INL is a "Government-Owned Contractor-Operated" (GOCO) agency and stated further that INL is not "for profit" but as part of the contract there is an award fee. **Representative Nate** asked about funding sources. **Dr. Peters** clarified that federal dollars are used for research and development and other small amounts are industry investment.

**Representative Beyeler** referred to communities surrounding INL and asked if there were pathways to expose youth to opportunities that may be available with INL. **Dr. Peters** gave an example of meeting with the Butte County Commissioners in Arco to discuss job fairs and apprising the communities of opportunities throughout the region.

#### **PRESENTATION:**

**Chairman Thompson** introduced Kirk Sorensen, President and Chief Technologist of Flibe Energy, to present information concerning the Liquid Fluoride Thorium Reactor in Idaho.

**Kirk Sorensen** indicated that he was honored to appear before the Committees and have an opportunity to talk about this exciting technology that has particular relevance to the State. Our civilization is extremely reliant on reliable and

affordable energy that can be counted on 24 hours a day, 7 days a week. Nuclear energy technologies are of great interest because of their potential to provide reliable and affordable kind of energy.

**Mr. Sorensen** explained that nuclear energy provides a reliable, concentrated source of natural energy and described the three types of nuclear energy: two are uranium based and the third uses a thorium reactor. He recounted the advantages, nature and processes of operating a thorium reactor. He noted that the Lemhi pass in Idaho is recognized as the richest deposit of thorium in the western hemisphere. **Mr. Sorensen** recounted the history of thorium as a potential power source. He explained the benefits of thorium over that of uranium and compared radio-toxicity levels. He reviewed the safety and integrity of fluid thorium fuel in comparison to uranium.

**Mr. Sorensen** reiterated the need for replenishing the nuclear "fleet," stressing the issue of the approaching retirement of the majority of nuclear power plants. He explained the method being developed to enable thorium reactors to be manufactured locally and shipped to various sites with very little site preparation before being activated to produce electrical power.

**Mr. Sorensen** described the methods being developed and those already in use to prepare thorium reactors and discussed the risks for investors. He reviewed alternative industry uses, giving an example of the medical field's use of radioisotopes. He spoke about the antiquity and inefficiency of facilities that currently produce products such as those used by the medical field for diagnostics and for treatment of cancer. He explained the ease of acquiring radioisotopes from a thorium reactor. **Mr. Sorensen** stated that the liquid fluoride thorium reactor proposal by INL is unique in that not only would isotopes be produced for medical technology, but they could lead to power generation.

**UNANIMOUS  
CONSENT  
REQUEST:**

**Chairman McKenzie** asked for the unanimous consent of the Senate State Affairs Committee to send **H 447** to the floor for possible amendment. There were no objections.

**Representative Rusche** asked about the history of technology. **Mr. Sorensen** reviewed the history of thorium and uranium 233 beginning with the war effort and the Manhattan Project up to the use of nuclear energy in present times.

**Representative Nielsen** asked for further explanation of the small modular reactors. **Mr. Sorensen** explained that with the thorium molten salt procedure, pressure is no longer needed and smaller units can be mass produced.

**ADJOURNED:**

There being no further business, **Chairman Thompson** adjourned the meeting at 3:00 p.m.

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Senator McKenzie  
Chair

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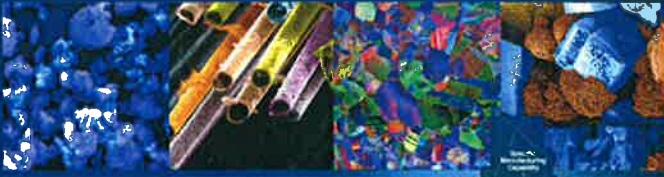
Twyla Melton, Secretary

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Assisted by Marian Smith



Mark Peters  
INL  
March 2, 2016  
Attachment 1

# Presentation to House Environment, Energy and Technology Committee



**Mark Peters**  
Director, Idaho National Laboratory

March 2, 2016



## The New Vision and Strategy Positions INL to be Relevant to Tomorrow's Energy Future



**Vision:**  
INL will change the  
world's energy future  
and secure our critical  
infrastructure.

- ADVANCING  
NUCLEAR  
ENERGY
- ENABLING  
CLEAN ENERGY  
DEPLOYMENT
- SECURING &  
MODERNIZING  
CRITICAL  
INFRASTRUCTURE

2





### Three Pillars of Simultaneous Excellence Shape the Future of INL


Scientific and  
Technical  
Excellence

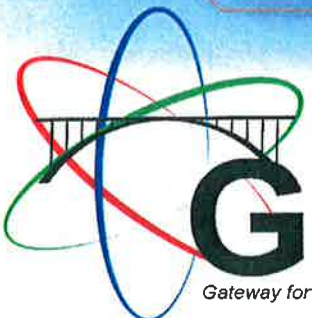
Community  
Excellence

Operational  
Excellence



3








# GAIN

Gateway for Accelerated Innovation in Nuclear


*Removing barriers to a cleaner, safer  
baseload nuclear energy source*








4



## INL Small Modular Reactor (SMR) Activities


- INL works with all vendors to provide fair access to the laboratory benefits
- INL works with industry on SMR technology and deployment
- INL is supporting DOE in deploying SMRs



### SMR Design Features

- INL is supporting multiple Light Water Reactor SMR vendors
  - Small, **but not always**, <300 MW reactors.
    - Less expensive reactors compared to current LWR reactors
  - Often, **but not always**, multiple reactors at the same site that can be deployed as power is needed (Modular)
  - Primary cooling system and reactor core in a single simpler nuclear power plant, **but not always**
- Integrated Pressurized Water Reactor SMR's are closest to licensing and deployment
  - Designed to be inherently safer and simple
  - Primary reactor system inside a single factory built containment vessel
  - Higher dependence on passive systems to simplify operation and design

5



## Idaho's Carbon Free Power Project (CFPP)

### Land Use Agreement (2/17/2016)

- DOE and UAMP signed an agreement to select, develop and operate a Small Modular Reactor (SMR) nuclear power plant at INL
- Agreement allows an NRC license for a commercial power plant to operate on an approved site
- INL and CFPP operations will be separate. Interfuses and access are established in the land use agreement
- CFPP will operate under local, state and federal regulations
- DOE water rights are not committed
- INL established an SMR team to support the CFPP and future SMRs

### Siting Status (March/April 2016)

- INL is working with CFPP to support an NRC approved site selection process meeting DOE's goals to deploy an SMR
- INL's expert knowledge of successfully operating multiple reactors is key
- Sites throughout Idaho and Utah were initially reviewed. Final candidates are all at INL
- Highest scoring sites were down selected and evaluated on additional data at each round
- Three rounds of down selects resulted in "final four" candidate sites
- Preferred site will be identified soon, then site characterization will begin
- Operating SMR planned for 2023

6



## Global Security Challenges

Enabling the warfighter, Intelligence Community and first responders

Global security against nuclear and radiological threats

Secure and resilient electric grid

Nuclear nonproliferation safeguards and security

Wireless security and spectrum crunch

Secure industrial control systems across critical infrastructure sectors

**National & Homeland Security**  
Positioned to address the world's most challenging problems in:

- Critical Infrastructure Protection and Resiliency
- Nuclear Nonproliferation
- Physical Defense Systems

7

## Energy and Environment Science & Technology: Excellence – Innovation – Impact


Advanced Transportation

Environmental Sustainability

Clean Energy

Advanced Manufacturing

8



## Center for Advanced Energy Studies

### Collaborative Energy Research

**Explore:** Energy & Environmental Research


**Educate:** Energy & Environmental Education


**Engage:** Apply Knowledge to Industry

**Enable:** Energy Transitions and Economic Development

### Core Capabilities

- Energy Systems Design and Analyses
- Nuclear Science and Engineering
- Materials Science and Engineering
- Environmental and Resource Sustainability
- Carbon Engineering
- Geological Systems and Applications
- Policy





**CAES Idaho Falls Facility**  
 • 55,000 square feet LEED Gold  
 • 8 Labs (4 with radioactive capabilities)  
 • 112 research staff

### CAES by the Numbers

In the past 5 years:

<b>\$105.1 M</b>	Research and development funding and equipment acquired
<b>3325</b>	Number of students supported by CAES-related projects
<b>814</b>	Number of publications, presentations, and proceeds CAES researchers produced

9



## The Idaho National Laboratory Site

### We Maintain:

- 890 square miles
- 111 miles of electrical transmission and distribution lines
- 579 buildings
- 177 miles of paved roads
- 14 miles of railroad lines
- 3 reactors
- 2 spent fuel pools
- Mass transit system
- Security
- Museum
- Educational and research partnerships – CAES



**3,771 Employees**  
 FY-2015 Business Volume  
**\$917M**

Minor National Laboratory origin data not included in this summary.


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### ***INL by the Numbers***

- **10 Year** anniversary of INL
- **14 States** have a National Lab *(there are 17)*
- **5<sup>th</sup> Largest** employer in Idaho
- **\$917M** business volume
- **\$130M** to Idaho subcontractors and small businesses
- **\$88.6K INL Annual Salary** (vs. \$38K Idaho vs. \$51.4K National)
- **506 new** INL employees
- **9,500 visitors** to EBR-I *(8,000 in 2014)*
- **350 interns** up from 170 *from last year*
- **\$622.5K** community giving
- **175 Events** hosted by INL

11



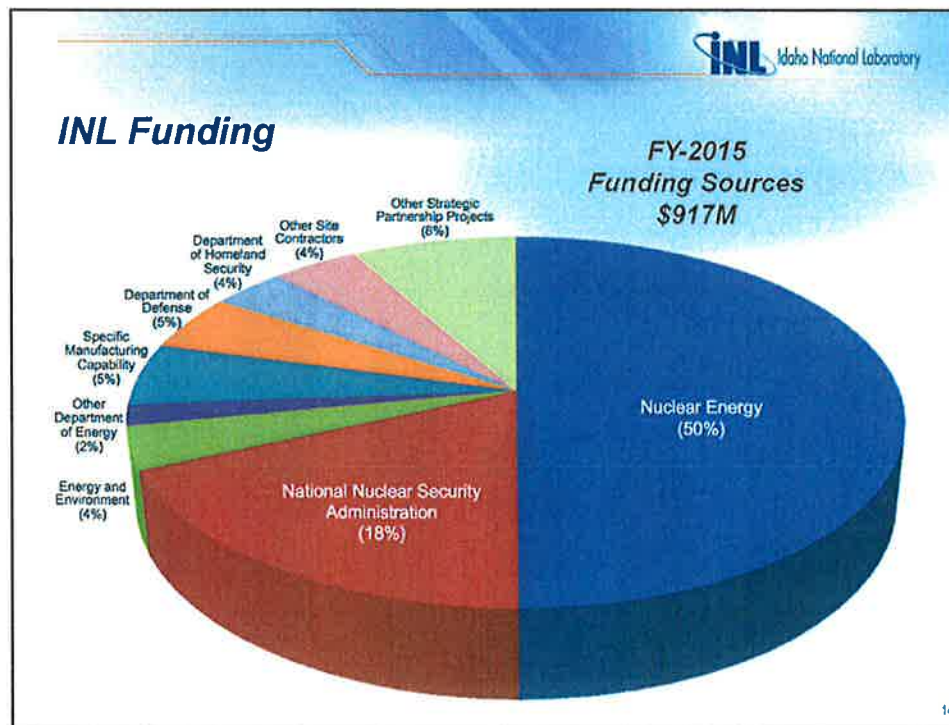
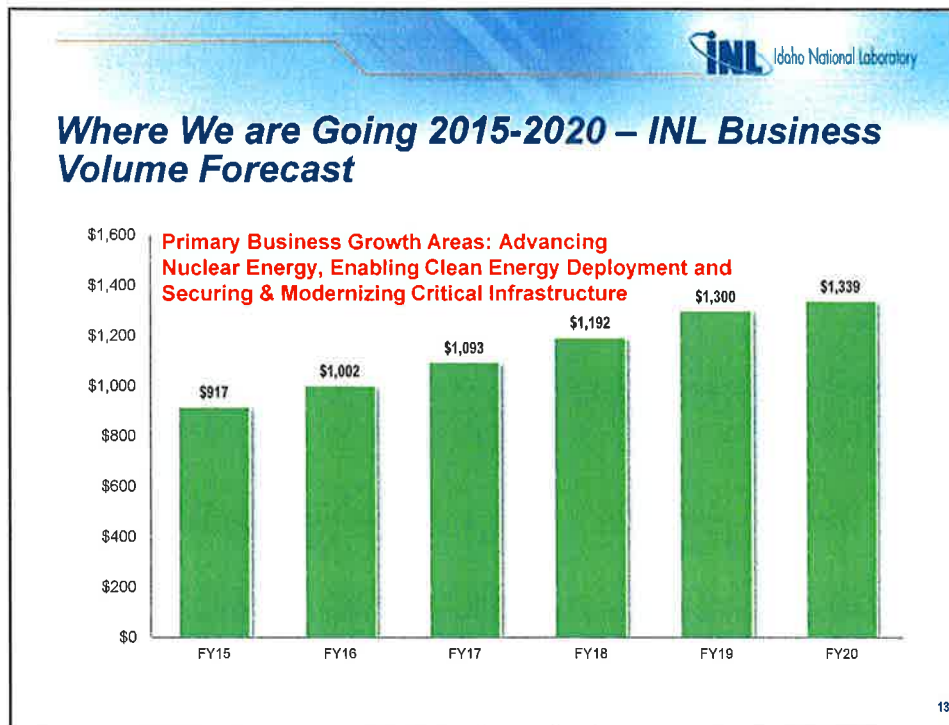
### ***Contribution to Idaho's Gross State Product***

- INL is Idaho's **5<sup>th</sup> largest private employer** and **10<sup>th</sup> largest** when compared to all public and private businesses.
- The Lab adds nearly **\$1.6 billion** to the state's total output and almost **9,300** to employment in Idaho – an **8% increase** over FY14

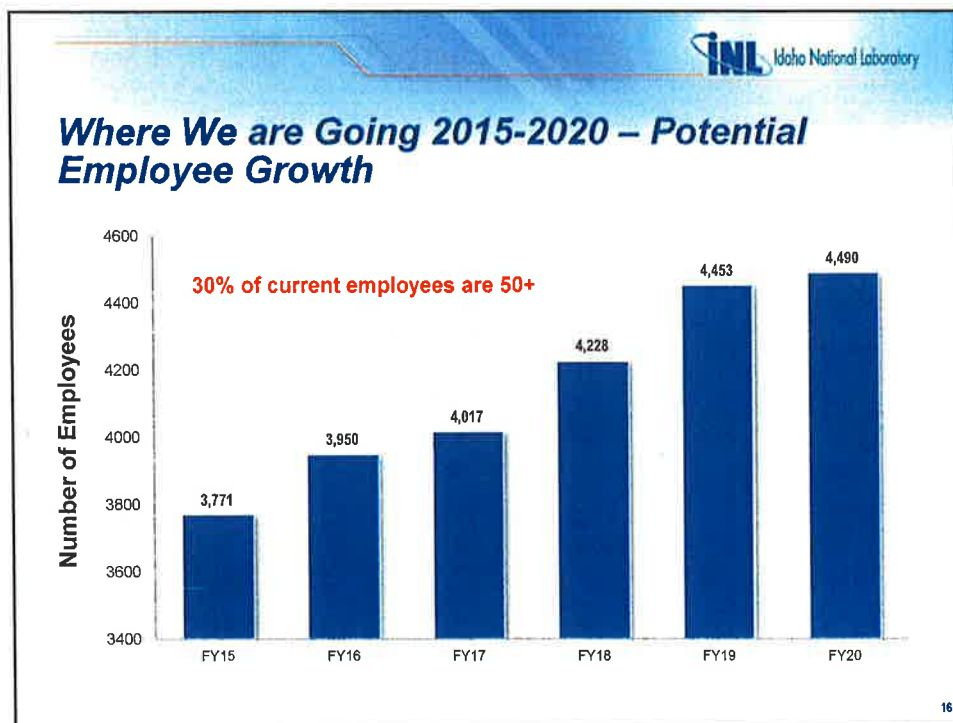
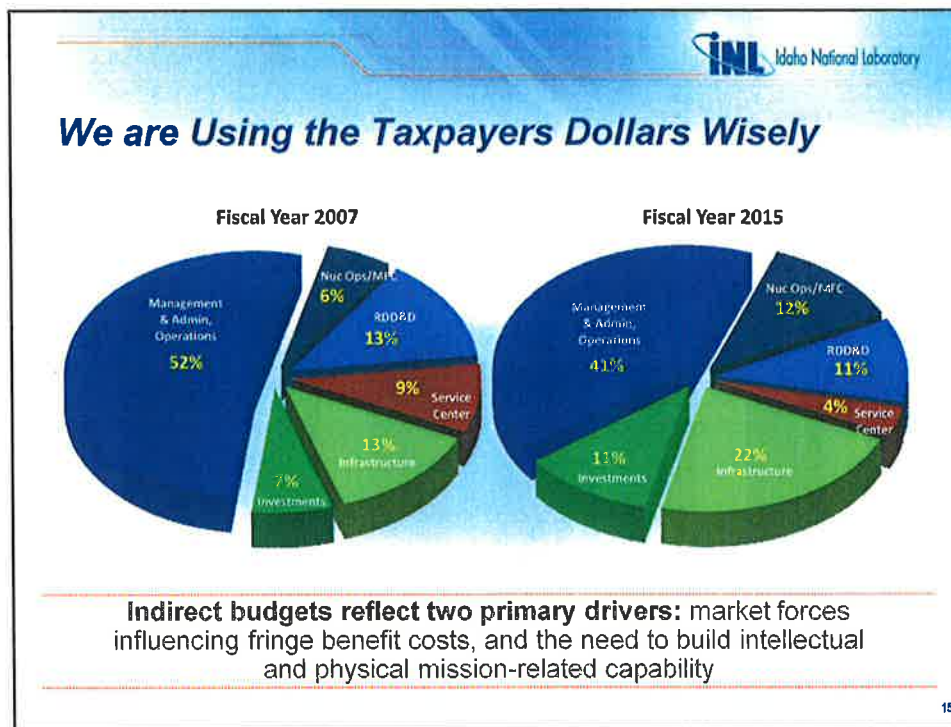
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- INL brought money into Idaho and generated additional value added output of nearly **\$942 million**
- More than **\$667 million of economic output** was generated through INL suppliers and employee household spending
- BEA subcontracted more than **\$130 million to Idaho subcontractors**
- INL economic impacts resulted in an estimated **\$58 million in state and local tax revenues**
- Average base salary of an INL employee is **\$88,635 annually**
- Taxes generated by INL operations account for **1.6% of total state** and local tax revenue

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## The Perfect Storm

- Silver tsunami
- INL is growing
- Local competition
- National STEM job hiring crisis
- Curriculum does not often match hiring need
- Soft skills and on the job familiarity often lacking





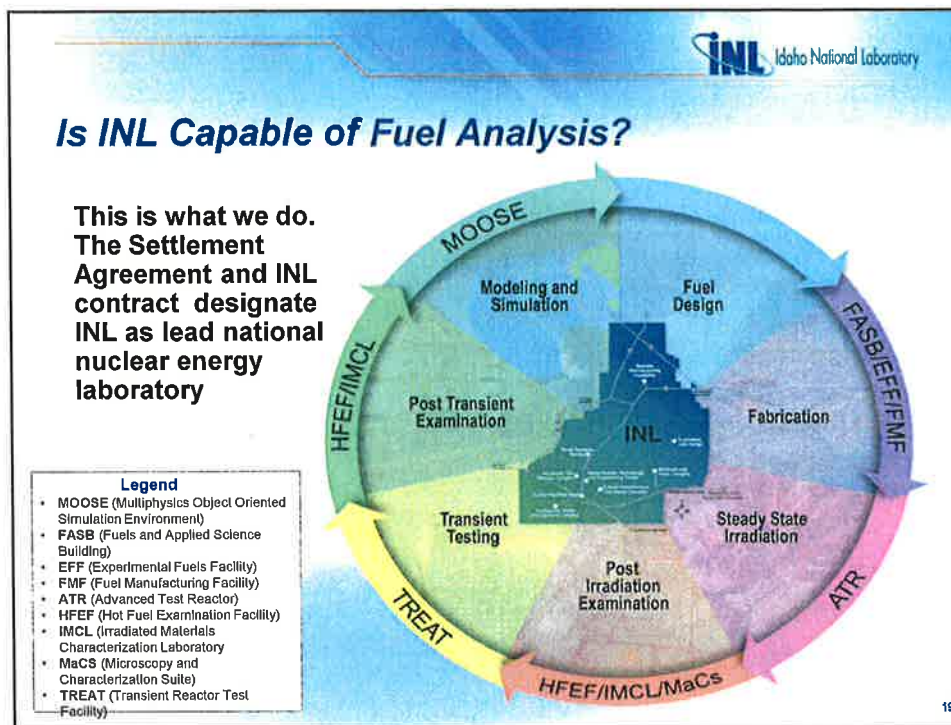
## Some Solutions

- **Hiring Solutions**
  - Improve new employee onboarding
  - Partner with University Programs to target schools that best match skill set/degree needs
  - Partner with the community to recruit to East Idaho
- **University/Workforce Development**
  - Strategically tie interns into needed disciplines
  - More joint appointments in areas of need
  - Target the universities/colleges that match best to INL need
  - Increase intern and postdoc opportunities
  - Design and build and change curriculum

- **K-12 STEM**
  - Tie to industry and INL needs - bring awareness of future career opportunities in Idaho
  - Promote and encourage diversity and rural school connections
- **Community**
  - Increase talent pipeline economic development partnership-grants, bring awareness of need, highlight and promote community/state



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**INL** Idaho National Laboratory

### Research Quantities of Spent Nuclear Fuel

- What is meant by Research Quantities of Nuclear material?
  - 2 shipments, 50 fuel rods, 4 pounds per rod, 200 total pounds, 60 years experience
- How is this work important to the Nation and International Community?
- How is this work important to Idaho?
- Is Idaho the preferred place to conduct this research?
- How is this work related to the provisions of the 1995 Batt Agreement?
- How could INL be impacted if this work doesn't come to the Lab?
- What is next?

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### ***We Want to Build on Our Relationship with Idaho***

- **Center for Advanced Energy Studies (CAES)**
  - Continue to grow CAES
- **Workforce Development**
  - Partner with Idaho Colleges and Universities to build talent pipeline
  - Partnerships in Talent Pipeline with IDOL/IDOC to drive high wage job growth
  - More Joint Appointments in areas of need
- **K-12 STEM**
  - Focus on reading competency is critical
  - Stem Action Center – other stem efforts are important
- **Utilize INL's Capabilities**
  - National User Facilities, other capabilities are available to state, universities, colleges
  - High performance computing
  - Cyber, Computer Engineering, Materials Science are areas of obvious collaboration
- **Advancing Programs in Washington, DC**
  - Work to ensure federal officials are certain of strong support for INL in Idaho
  - Work with regional partners to increase impact of our advocacy
  - LINE Commission

21





# Solving Important Problems with Thorium Reactors

Kirk Sorensen  
Flibe Energy  
March 2, 2016

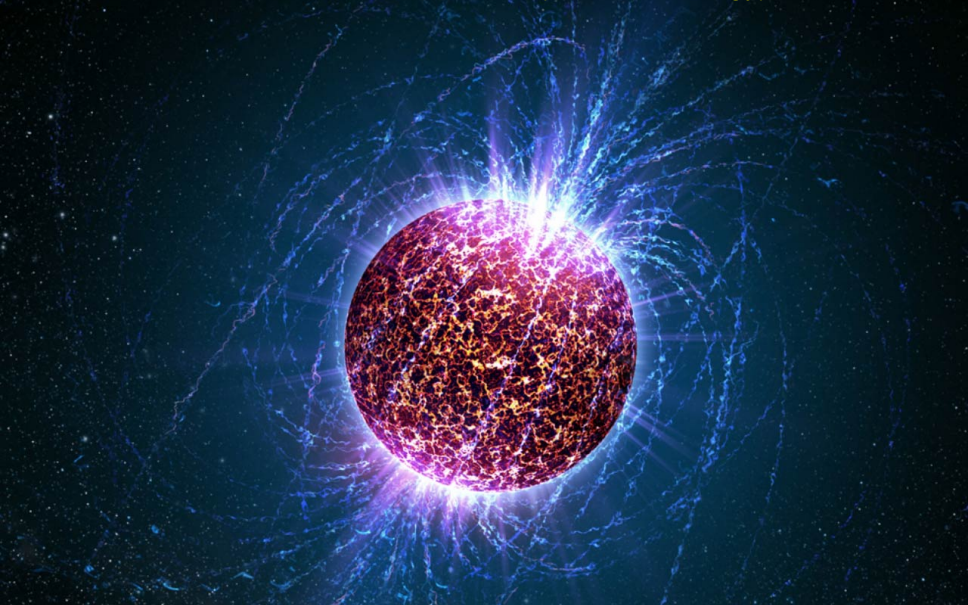




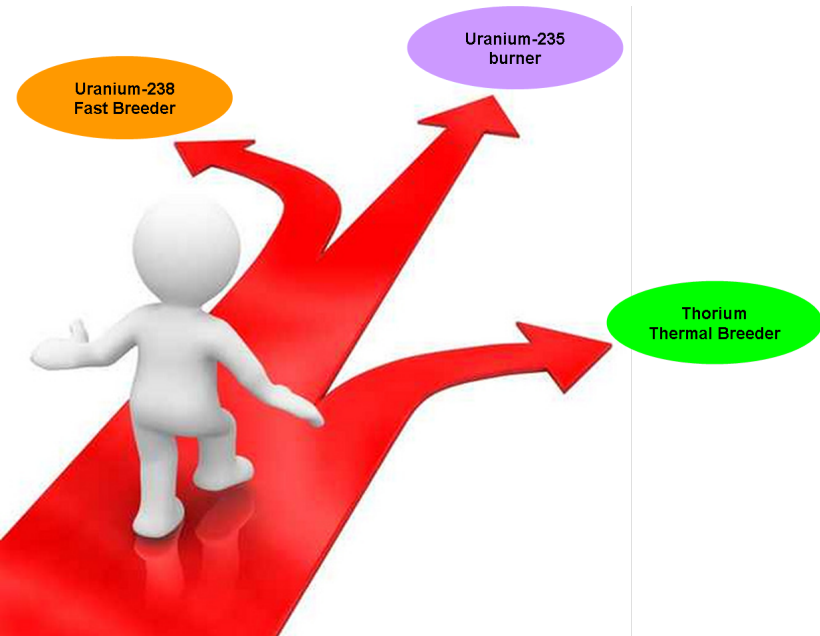
Our industrial civilization expects reliable, affordable energy.



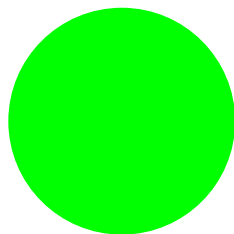
The energies that bind the atomic nucleus (nuclear energy) are approximately two million times greater than the energies that bind the atomic electrons (chemical energy).



# Three Nuclear Options

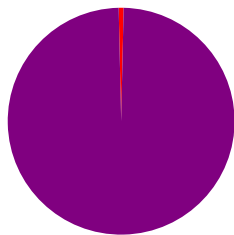
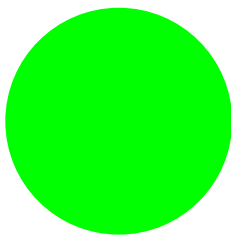
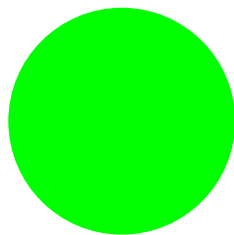


## Possible Nuclear Fuels



Natural Thorium  
100% thorium-232

Natural Uranium  
99.3% uranium-238  
0.7% uranium-235



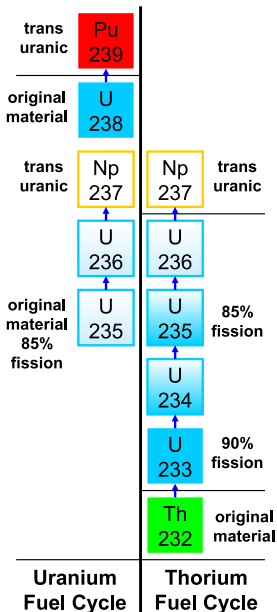
Only a small fraction of natural uranium is fissile. Most uranium and all thorium is "fertile" and can be converted to fissile material through neutron absorption.



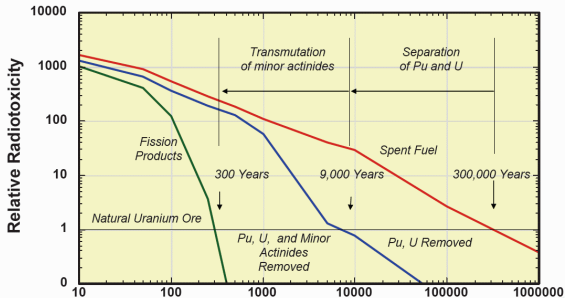




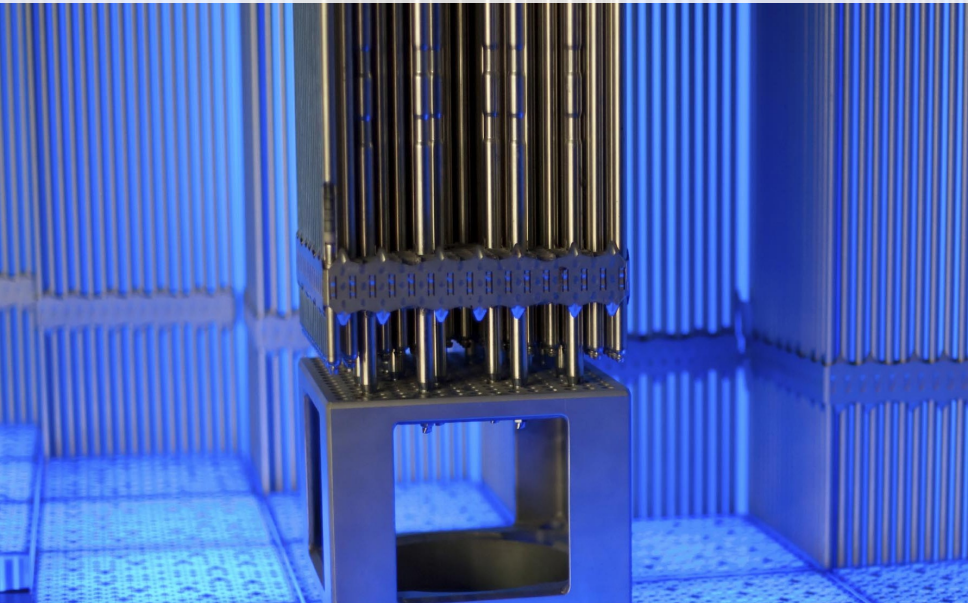
# Reducing Long-Lived Waste



- ▶ Today's approach to nuclear energy consumes only a small amount of the energy content of uranium while producing "transuranic" nuclides that complicate long-term waste disposal.
- ▶ Using thorium/U-233 in a liquid-fueled reactor can more nearly approach the ideal of a fission-product-only waste stream that reaches the same radioactivity as uranium ore in 300 years.

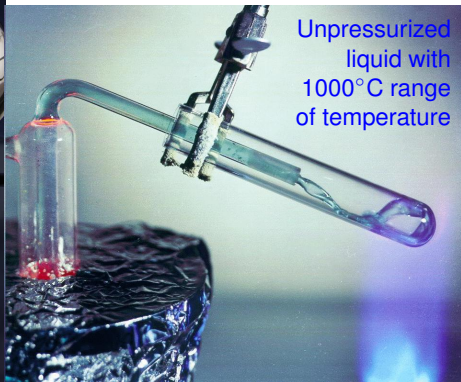
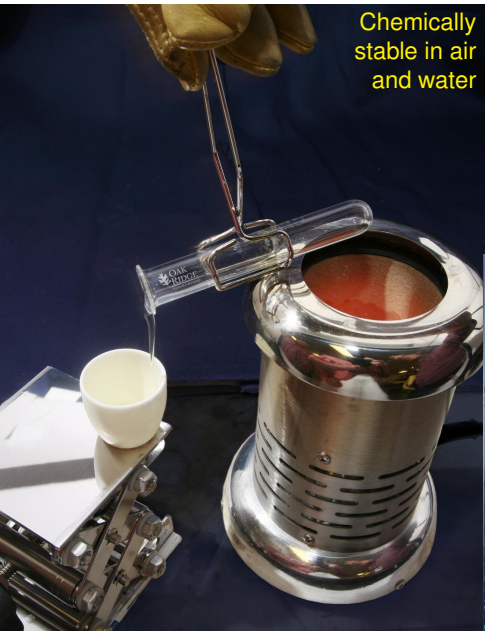


Today's nuclear fuel is fabricated with extraordinary precision, like a fine watch.



But it is that precision that makes it difficult to recycle and to refabricate. A new approach is needed that is more versatile and less expensive.

# Fluoride salts are safe and versatile

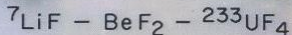


LiF-BeF<sub>2</sub> fluoride salt is an excellent carrier for uranium (UF<sub>4</sub>) nuclear fuel.

AS  
CRYSTALLIZED  
SOLID

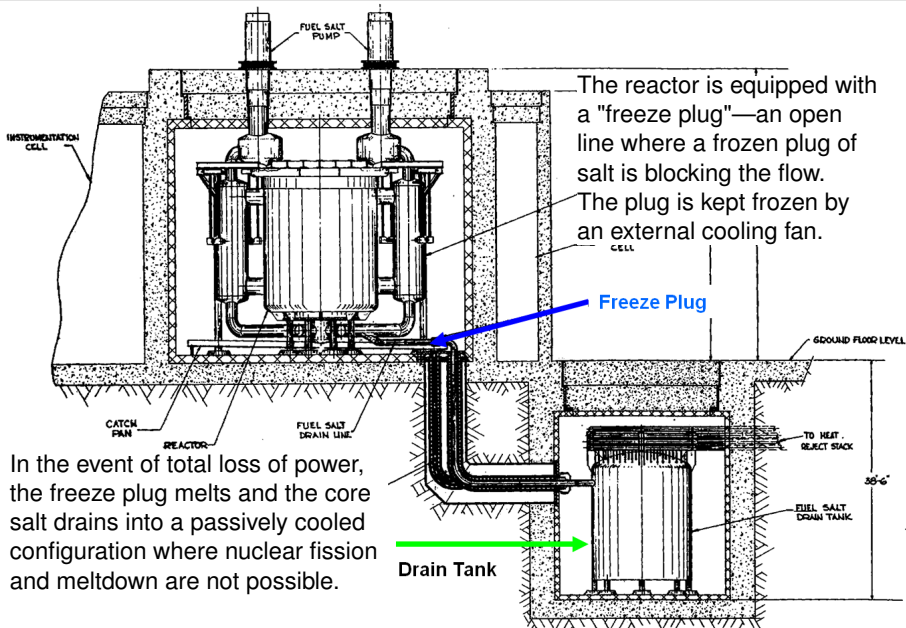


AS  
LIQUID

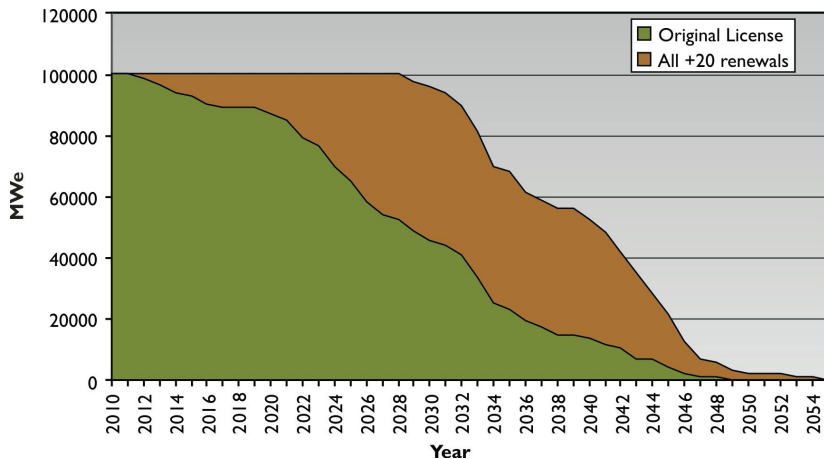


FLUORIDE FUEL FOR A MOLTEN SALT REACTOR

# Liquid fuels enhance safety options



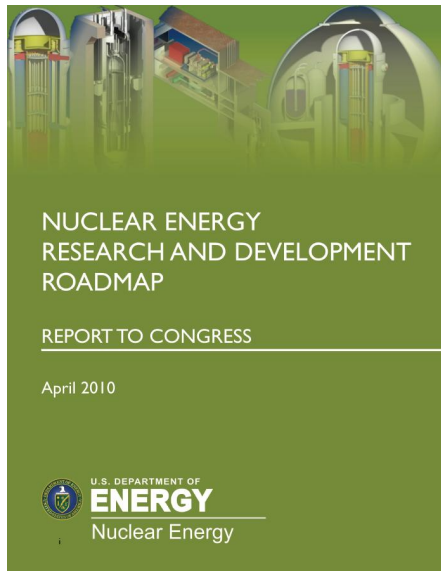
# The US Nuclear Retirement "Cliff"



The challenge will soon grow much worse.

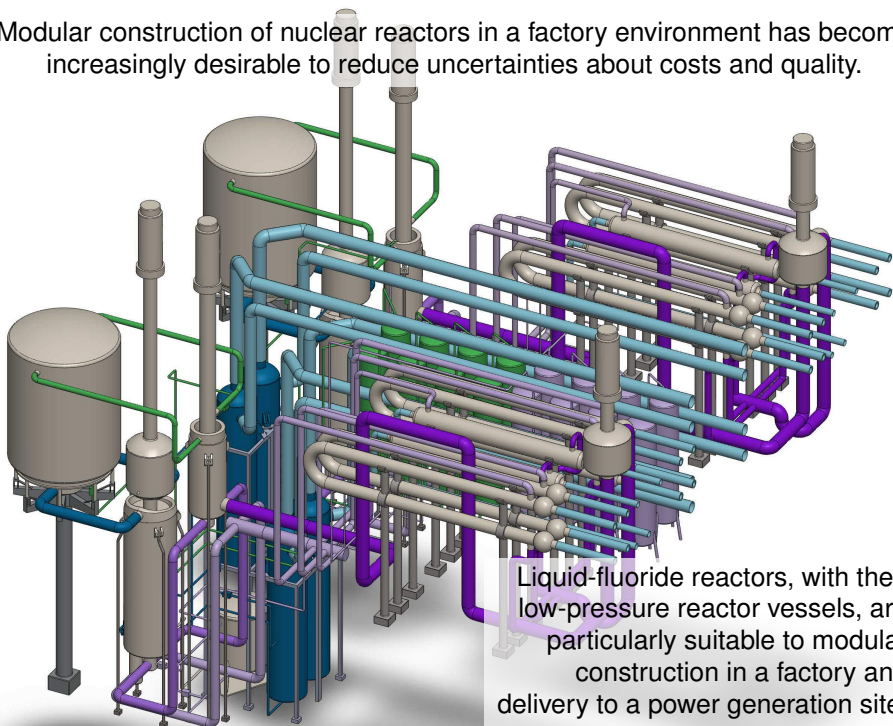


# DOE sees Industry Leading Future Nuclear



- ▶ "In the United States, it is the responsibility of industry to design, construct, and operate commercial nuclear power plants." (pg 22)
- ▶ "It is ultimately industry's decision which commercial technologies will be deployed. The federal role falls more squarely in the realm of R&D." (pg 16)
- ▶ "The decision to deploy nuclear energy systems is made by industry and the private sector in market-based economies." (pg 45)

Modular construction of nuclear reactors in a factory environment has become increasingly desirable to reduce uncertainties about costs and quality.



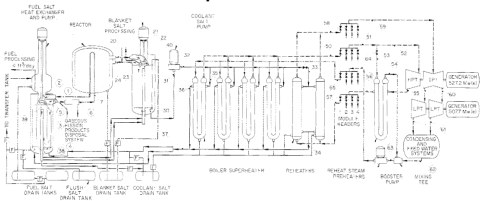
Liquid-fluoride reactors, with their low-pressure reactor vessels, are particularly suitable to modular construction in a factory and delivery to a power generation site.



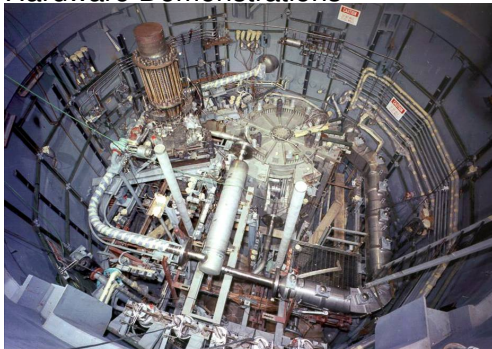
Flibe Energy was formed in order to develop liquid-fluoride reactor technology and to supply the world with affordable and sustainable energy, water and fuel.

# Thorium Reactor Technology

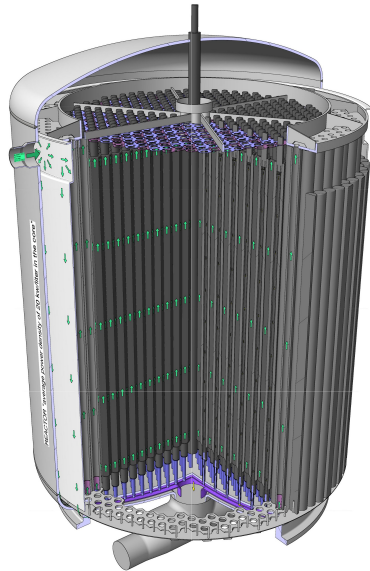
## Historical Concepts



## Hardware Demonstrations

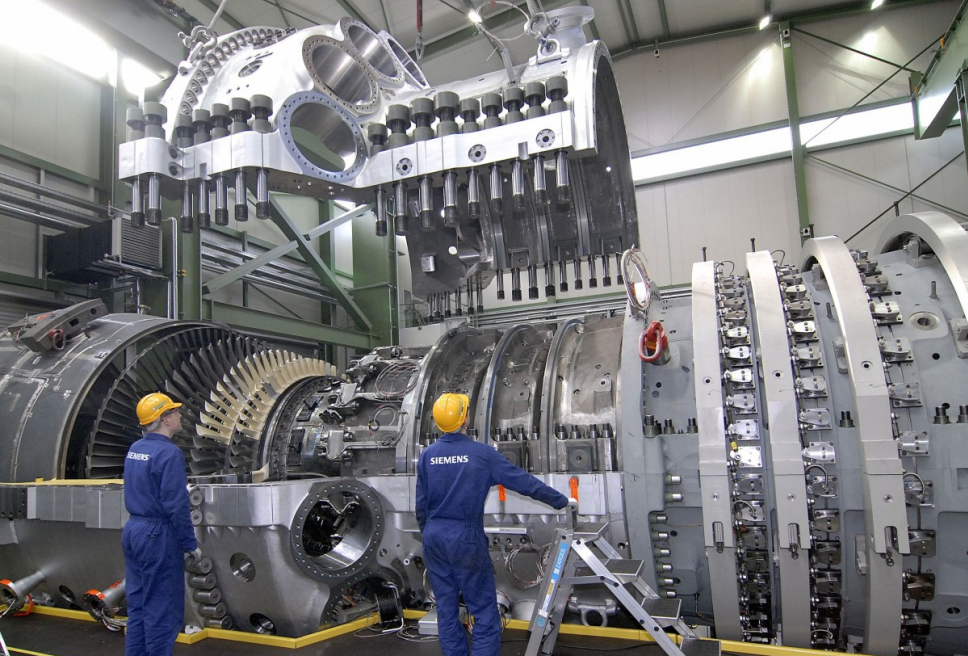


## Modern Designs





Important materials for this project (thorium and beryllium) are found in Idaho and Utah.



An abundance of advanced manufacturing opportunities exist for this technology.



# Development Principles

Advanced nuclear has been attempted many times before and has not been commercialized. What makes this approach different?

- ▶ Thorium reactors can produce inexpensive electricity essentially indefinitely, but
- ▶ Any reactor technology, conventional or advanced, will find it difficult to offer attractive returns to risk investors at current electrical prices, so
- ▶ Production of medicines from the reactor can pay for the considerable costs of development and will attract public support

## Development Strategy

- ▶ 2016: Research reactor experiment (50 kWt)
  - ▶ test fuel and blanket salt samples
  - ▶ potentially extract medical isotopes
- ▶ 2020: Research and test reactor (10 MWt)
  - ▶ extract and sell medical isotopes
- ▶ 2024: Demonstration reactor (100 MWt)
- ▶ 2027: Prototype utility reactor (1000 MWt)

# Efficient Generation of Medical Radioisotopes

Using Thorium Molten-Salt Technology

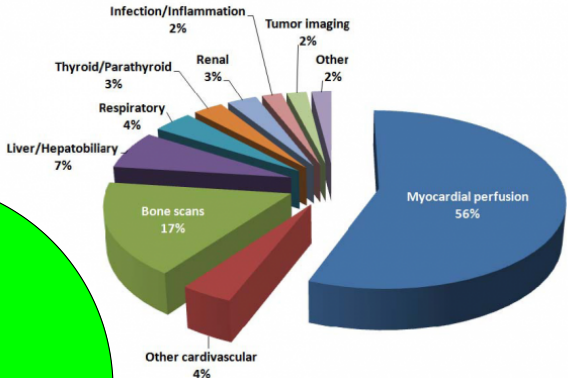
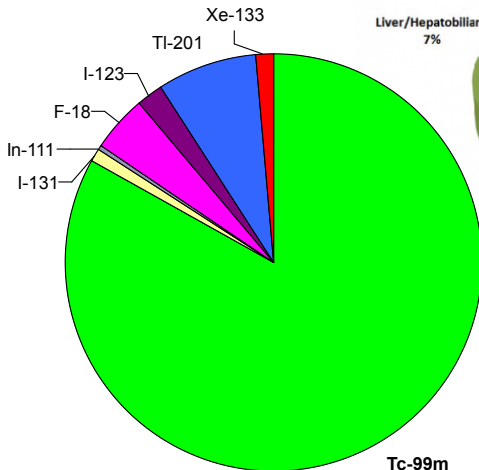
Kirk Sorensen  
Flibe Energy  
March 2, 2016

# Use of Tc-99m simplifies medical diagnostics



# Medical procedures using Tc-99m

Tc-99m, derived from Mo-99, dominates world medical radioisotope use.



Tc-99m is predominantly used in cardiac scans, bone scans, and gall-bladder scans.

This industry has a value of approximately \$2 billion per annum.

# Examples of how Tc-99m is used for medical imaging

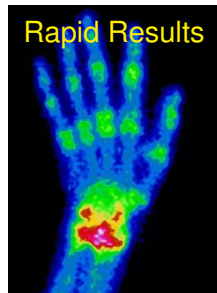
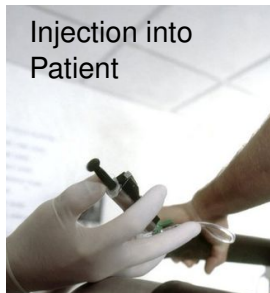
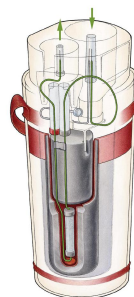
Kit Name	Imaging Procedure
Technetium Tc-99m Medronate (MDP)	Bone Scan
Technetium Tc-99m Albumin Aggregated (MAA)	Lung Perfusion
Technetium Tc-99m Pentetate (DTPA)	Kidney Scan and Function
Technetium Tc-99m Sulfur Colloid	Liver Scan
	Sentinel Lymph Node Localization
Technetium Tc-99m Sestamibi	Cardiac Perfusion
Technetium Tc-99m Exametazime	Brain Perfusion
Technetium Tc-99m Mebrofenin	Gall Bladder Function
Technetium Tc-99m Etidronate	Bone Scan
Technetium Tc-99m Disofenin	Gall Bladder Function
Technetium Tc-99m Succimer (DMSA)	Kidney Scan and Function
Technetium Tc-99m Tetrofosmin	Cardiac Perfusion
Technetium Tc-99m Bicisate	Brain Perfusion
Technetium Tc-99m Red Blood Cell	Blood Pool Imaging
Technetium Tc-99m Sodium Pertechnetate	Thyroid, Salivary Gland, Meckel's Scan
Technetium Tc-99m Lidofenin	Gall Bladder Function
Technetium Tc-99m Mertiatide (MAG3)	Kidney Scan and Function
Technetium Tc-99m Oxidronate (HDP)	Bone Scan

<sup>a</sup> MAA = methacrylic acid, MDP = methylene diphosphonate, DTPA = diethylene triamine pentaacetic acid, DMSA = dimercaptosuccinic acid, MAG3 = mercapto acetyl triglycine, HDP = hydroxymethylene diphosphonate.

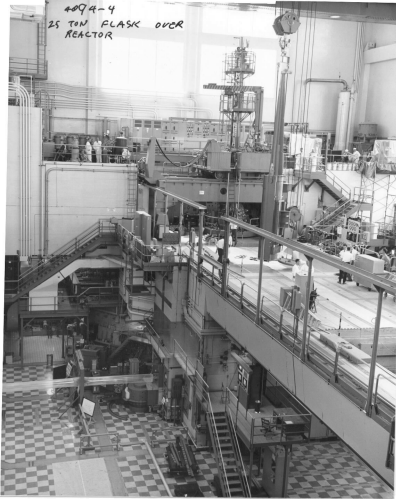
<sup>b</sup> Extracted from the Food and Drug Administration approved pharmaceutical list, 2008.



# Medical Isotope Use



# Existing Mo-99 production reactors are old



National Research Universal (NRU) reactor, Chalk River, Ontario, Canada started up with Sputnik (1957)



High Flux Reactor (HFR), Petten, Netherlands started up with Yuri Gagarin (1961)

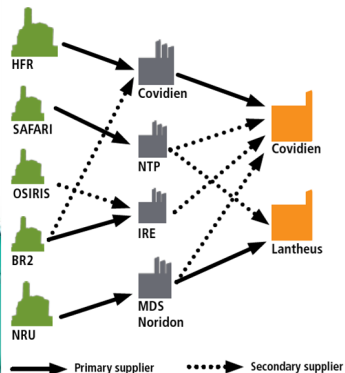
# Reactors and Mo-99 supply chains

Research reactors producing molybdenum-99 exist around the world but the largest are in Netherlands and Canada, with the Canadian reactor shutting down in 2018.

## MOLYBDENUM-99 SOURCES



## Normal U.S. Supply Chain



# Large power reactors make vast amounts of Mo-99

...which unfortunately  
is utterly inaccessible...



due to high pressure  
operation and the use of  
solid nuclear fuel.



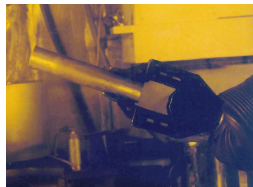
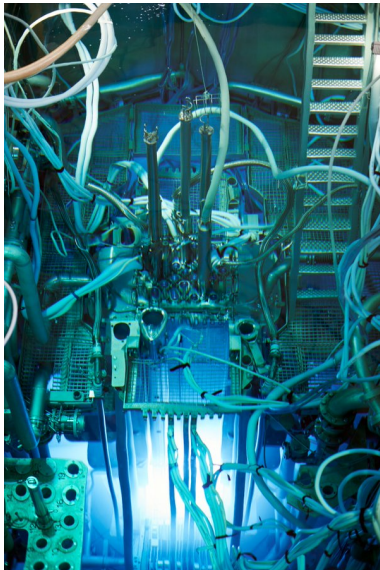
# Today's Medical Isotope Production Approach



Solid targets of highly-enriched uranium

- expensive
- risky
- supply cutoff

Short exposure (~6 days) in research reactor



Complicated chemical processing

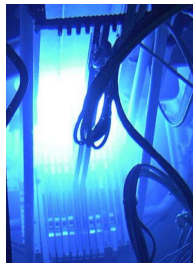
- 97% wasted
- residue causes international concern

# An Innovative Solution to the Problem

Liquid thorium fuel, impervious to radiation damage, loaded in a graphite crucible as an isotope generator.



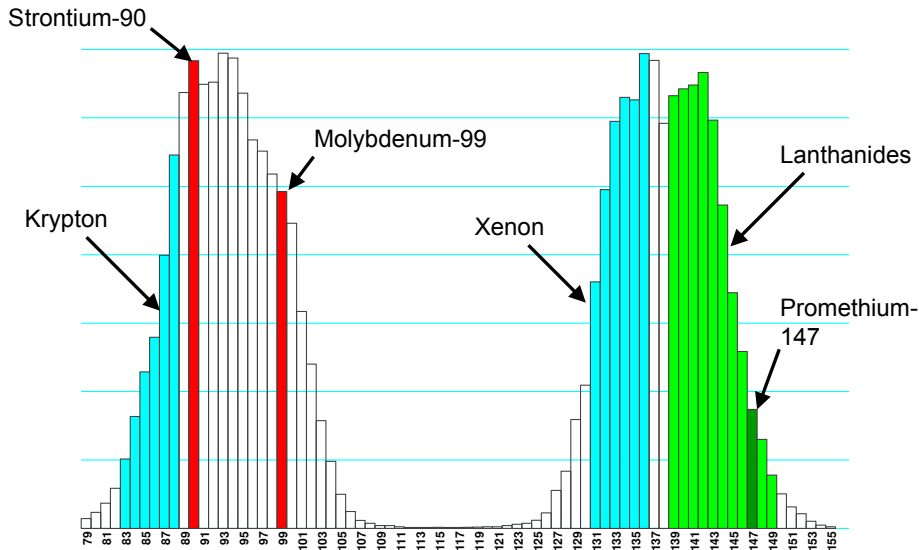
Liquid thorium fluoride target loaded into reactor flux, only desired isotope products removed.



Simplified chemical processing  
— no fuel wasted  
— no U or Pu

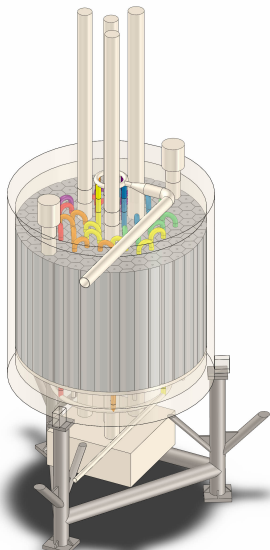


# Molybdenum-99 is a fairly common fission product



About 5% of the fission reactions in uranium-233 generate molybdenum-99.

# Small MSR would produce globally-significant Mo99



## Modeling parameters:

- ▶ 10.5 kCi/d/MWt Mo99 generation rate
- ▶ 2.0 MW (thermal) reactor
- ▶ molybdenum removal efficiency of 90%
- ▶ 3 day transport delay (pessimistic)
- ▶ 713,000 6-day Ci/yr Mo99 production
- ▶ 6-day Ci Mo99 price range: \$225 - \$1000

## Financial results:

- ▶ Mo99 revenue of \$160 to \$713M/yr

## Global implications:

- ▶ 1.1x global Mo99 consumption in 2006

# North American Competition for $^{99}\text{Mo}$ Production

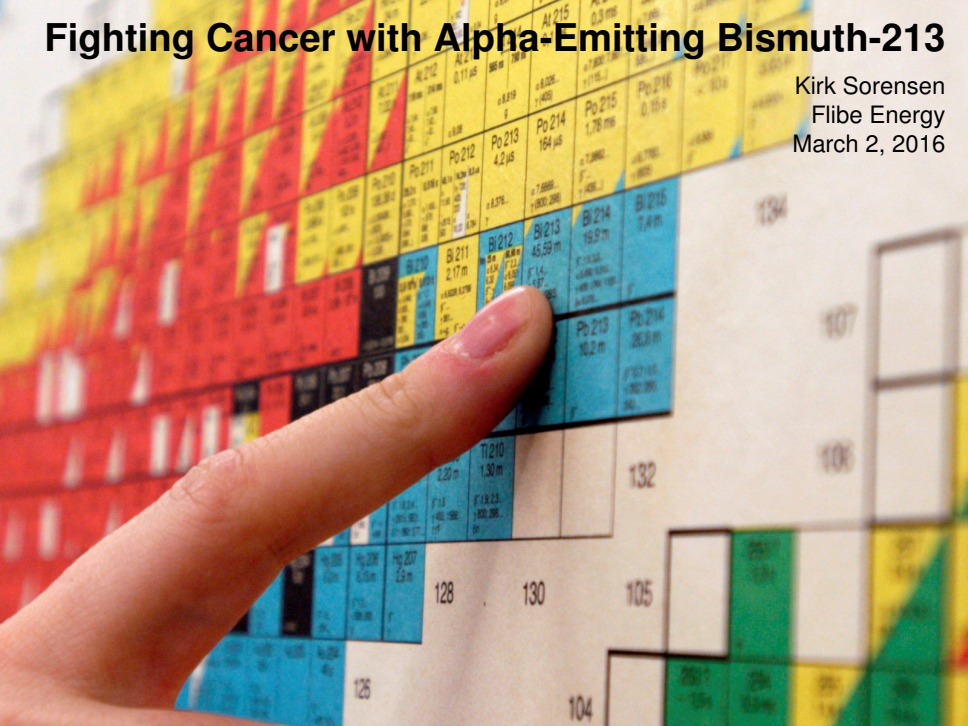
- ▶  $^{235}\text{U} (n, f) ^{99}\text{Mo}$  in solid uranium targets (LEU or HEU)
  - ▶ NorthWest Medical Isotopes, Corvallis, Oregon
  - ▶ Coqui Pharmaceuticals, Coral Gables, Florida
  - ▶ Eden Radioisotopes, Albuquerque, New Mexico
  - ▶ General Atomics, San Diego, California
- ▶  $^{98}\text{Mo} (n, \gamma) ^{99}\text{Mo}$  in solid molybdenum targets
  - ▶ NorthStar Medical Isotopes, Madison, Wisconsin
  - ▶ GE Hitachi Nuclear Energy, Wilmington, North Carolina
- ▶  $^3\text{H} (d, n) ^4\text{He}$  in subcritical aqueous uranium solution
  - ▶ SHINE Medical Technologies, Monona, Wisconsin
- ▶  $^{100}\text{Mo} (e^- \rightarrow \gamma, n) ^{99}\text{Mo}$  in solid molybdenum target
  - ▶ NorthStar Medical Isotopes, Madison, Wisconsin
- ▶  $^{100}\text{Mo} (p, 2n) ^{99m}\text{Tc}$  in solid molybdenum target
  - ▶ TRIUMF, Vancouver, British Columbia

## Current Status and Accomplishments

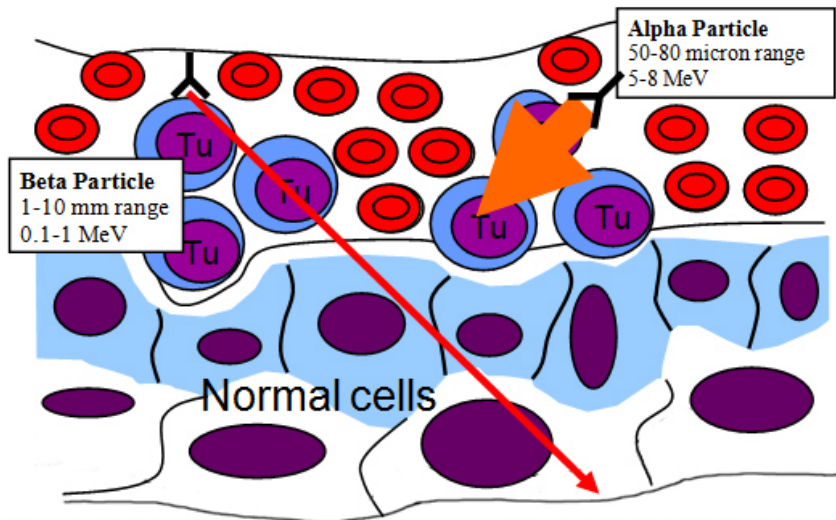
- ▶ Letter-of-intent with NRC for Mo99 production
- ▶ Joined DOE Uranium Lease and Take-Back Program
- ▶ Completed EPRI-funded study
- ▶ Pending MOU with NRG (Netherlands reactor operator)
- ▶ Key university research relationships being finalized

# Fighting Cancer with Alpha-Emitting Bismuth-213

Kirk Sorensen  
Flibe Energy  
March 2, 2016



# Radiotherapy against cancer

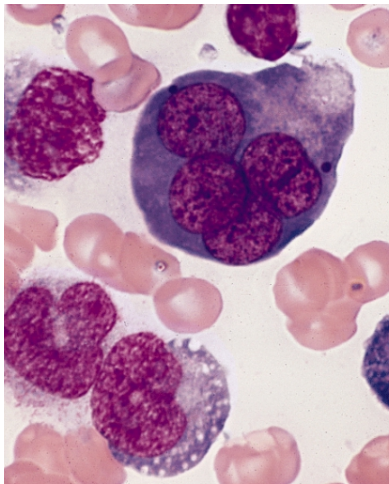


When a radionuclide emits an alpha particle, it packs a lot of energy and slows down quickly, killing cells within two cell diameters. This makes it very effective in fighting dispersed cancers like leukemia and lymphoma.

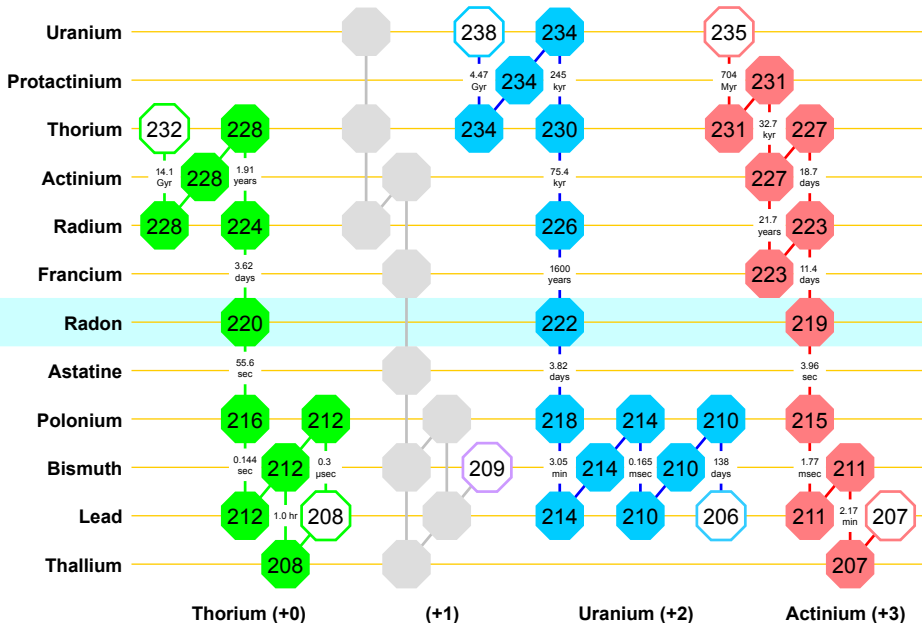


# Acute Myeloid Leukemia (AML)

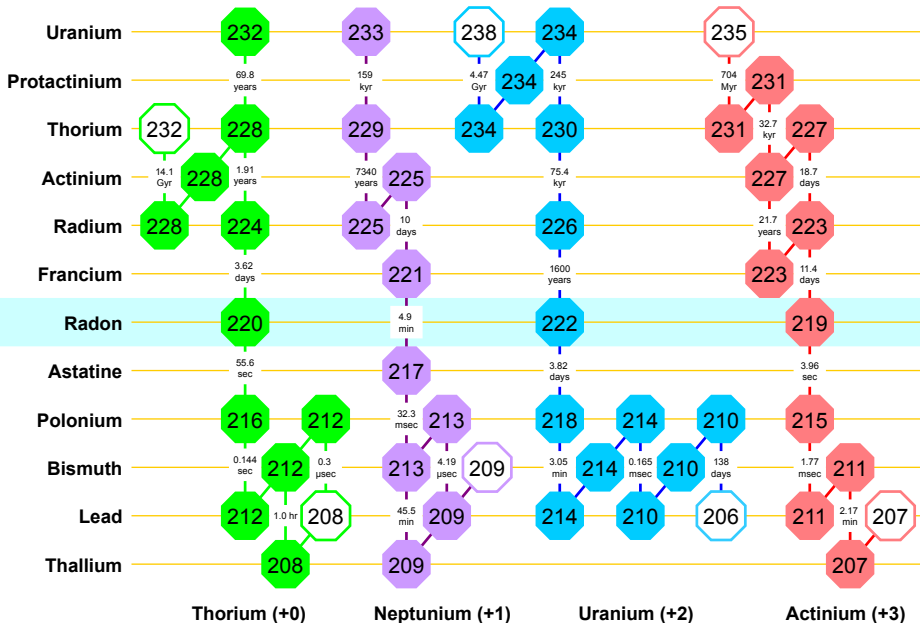
- ▶ AML is a relatively rare cancer.
  - ▶ ~10,500 new cases each year in the US
  - ▶ stable incidence rate 1995-2005
  - ▶ accounts for 1.2% of all cancer deaths in US
- ▶ Incidence of AML increases with age
  - ▶ 63 is median age
  - ▶ 90% of all acute leukemias in adults, rare in children
  - ▶ male-to-female ratio of 4:3
- ▶ Complete remission is obtained in about 50-75% of newly diagnosed adults.
- ▶ The length of remission depends on the prognostic features of the original leukemia. In general, all remissions will fail without additional consolidation therapy



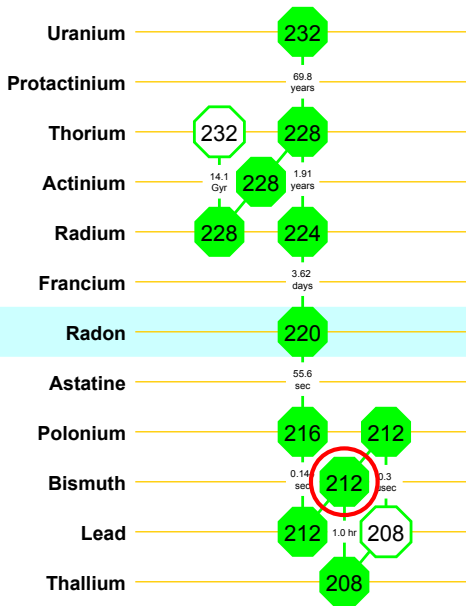
# Nuclear Decay Chains, circa 1940



# Nuclear Decay Chains

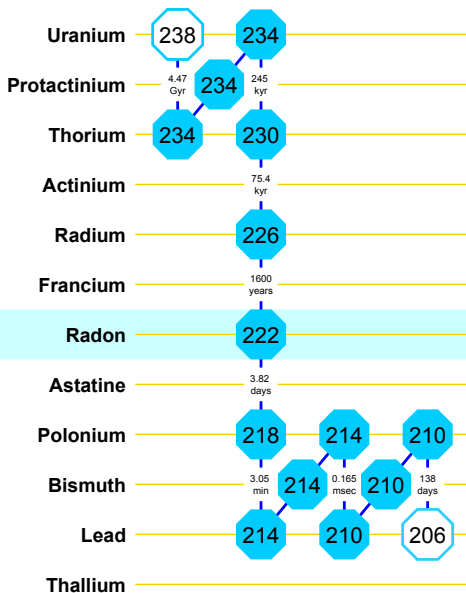


# The Thorium Decay Chain



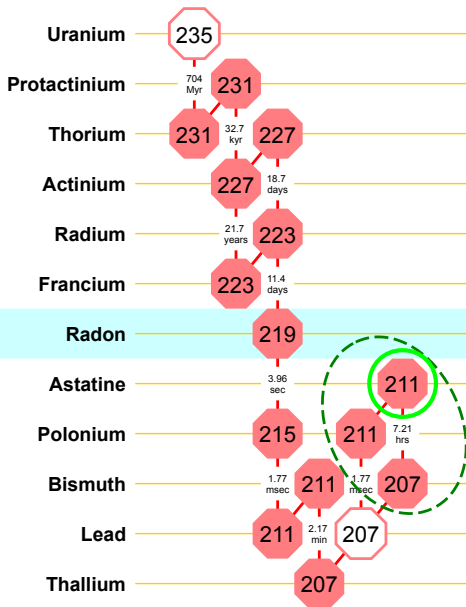
- ▶ Thorium is abundant on Earth and it would be ideal if a suitable alpha-emitting radioisotope could be found on this decay chain
- ▶ But as the decay chain passes through gaseous radon the original inventory is dispersed to a degree
- ▶ Bismuth-212, with a one-hour half-life, has been considered but it has disadvantages
  - ▶ 35% of the decays are to thallium-208, a hard-gamma-emitting radioisotope

# The Uranium Decay Chain



- ▶ Uranium-238 is also abundant on Earth and it would be ideal if a suitable alpha-emitting radioisotope could be found on this decay chain
- ▶ But as the decay chain passes through a longer-lived gaseous radon isotope (Rn-222) and the original inventory is significantly dispersed
- ▶ Beyond that, there are no suitable alpha-emitting radioisotopes on this chain
  - ▶ Lead-210 has a 22-year half-life beta-decaying to Polonium-210, which has a 138 days half-life—much too long to be effective in targeted alpha therapy

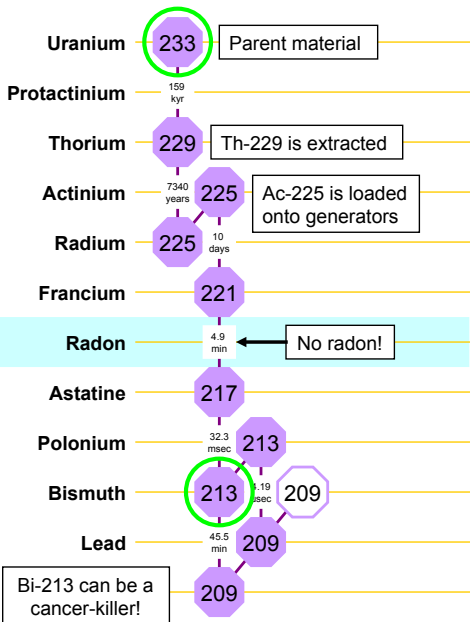
# The Actinium Decay Chain



- ▶ Uranium-235 is quite rare on Earth
- ▶ It also passes through gaseous radon, leading to inventory dispersal
- ▶ There are no suitable alpha-emitting radioisotopes on this chain
  - ▶ Bi-211 with 2 min half-life is too short
- ▶ Artificially-produced Astatine-211 can be made in small quantities in particle accelerators by bombarding natural bismuth with alpha particles
  - ▶ Quantities are limited by the slow reaction rate



# The Neptunium Decay Chain



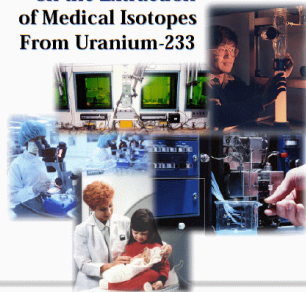
- ▶ This natural chain is completely extinct on Earth, but we have resurrected it by creating uranium-233 from thorium in nuclear reactors.
- ▶ Only this chain skips over radon altogether!
- ▶ Bismuth-213 is arguably the very best isotope for targeted alpha therapy
  - ▶ 45 minute half-life—ideal for delivery
  - ▶ 2.2% of the time it directly alpha-decays to thallium-209
  - ▶ 97.8% of the time it beta-decays to polonium-213 which immediately alpha-decays to lead-209
  - ▶ Ends in stable and non-toxic natural bismuth (active ingredient in Pepto-Bismol)
- ▶ The world inventory for U-233 is stored in one place—ORNL building 3019...and it's slated to be destroyed...

# Congress Recognized Value of Th-229

“Ac-225 and Bi-213 are currently derived from purified Th-229 extracted from U-233 at ORNL. The only practical way at present is to derive these isotopes from the natural decay of Th-229. Th-229 is produced by the natural decay of U-233. Ac-225 is the product being shipped to medical facilities. Bi-213 is separated from the Ac-225 at the hospital and combined with the targeting agent.

“Bi-213 appears to be very potent, so only a very minute quantity may be needed to treat a patient...on the order of a billionth of a gram.”

## Report to Congress on the Extraction of Medical Isotopes From Uranium-233

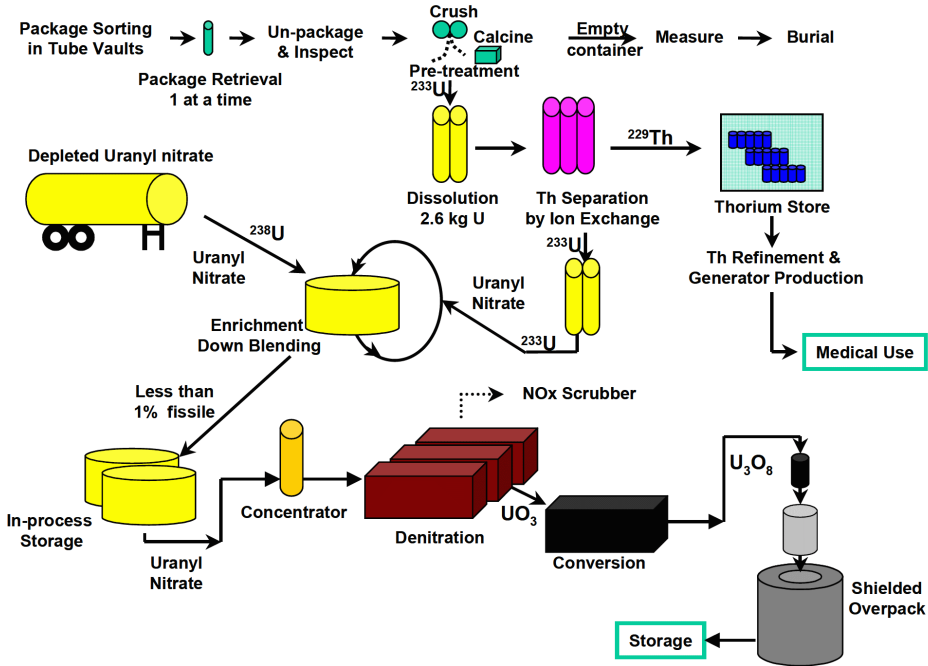


U.S. Department of Energy  
Office of Nuclear Energy, Science and Technology  
Office of Isotopes for Medicine and Science

March 2001

# Building 3019





# DOE IG Tried to Intervene to Preserve Th-229

In May 2008 the Inspector General of the DOE issued a strongly-worded report to stop the destruction of uranium-233

- ▶ “The loss of the uranium-233 will have significant impact on medical research which is now requiring a greater supply of progeny isotopes than ever before.”
- ▶ “Based on our discussion...we learned that there is currently a lack of programmatic authority to...continue providing progeny isotopes from uranium-233.”
- ▶ “Both the U-233 inventories are now controlled and managed by DOE-EM whose mission is to dispose of these unwanted material. **Given this responsibility, EM is proceeding with short-term actions to dispose of these materials as waste.**”



U.S. Department of Energy  
Office of Inspector General  
Office of Audit Services

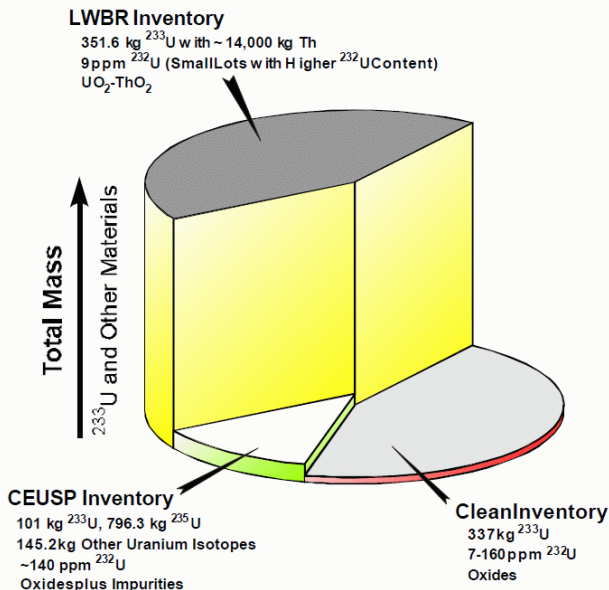
## Special Report

Meeting Medical and Research  
Needs for Isotopes Derived from  
Uranium-233

DOE/IG-0795

May 2008

# Uranium-233 Inventories in DOE

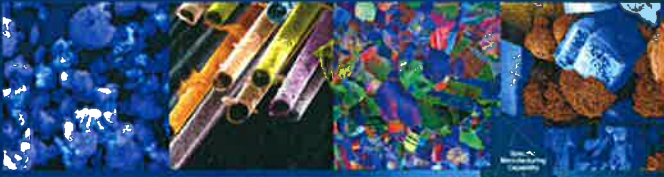







Mark Peters  
INL  
March 2, 2016  
Attachment 1

# Presentation to House Environment, Energy and Technology Committee



**Mark Peters**  
Director, Idaho National Laboratory

March 2, 2016



## The New Vision and Strategy Positions INL to be Relevant to Tomorrow's Energy Future



**Vision:**  
INL will change the  
world's energy future  
and secure our critical  
infrastructure.

- ADVANCING  
NUCLEAR  
ENERGY
- ENABLING  
CLEAN ENERGY  
DEPLOYMENT
- SECURING &  
MODERNIZING  
CRITICAL  
INFRASTRUCTURE

2



**Three Pillars of Simultaneous Excellence  
Shape the Future of INL**


Scientific and  
Technical  
Excellence

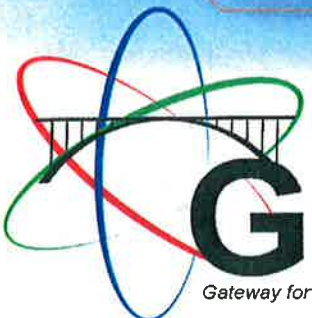
Community  
Excellence

Operational  
Excellence



3








# GAIN

Gateway for Accelerated Innovation in Nuclear

***Removing barriers to a cleaner, safer  
baseload nuclear energy source***









4





## INL Small Modular Reactor (SMR) Activities


- INL works with all vendors to provide fair access to the laboratory benefits
- INL works with industry on SMR technology and deployment
- INL is supporting DOE in deploying SMRs



### SMR Design Features

- INL is supporting multiple Light Water Reactor SMR vendors
  - Small, **but not always**, <300 MW reactors.
    - Less expensive reactors compared to current LWR reactors
  - Often, **but not always**, multiple reactors at the same site that can be deployed as power is needed (Modular)
  - Primary cooling system and reactor core in a single simpler nuclear power plant, **but not always**
- Integrated Pressurized Water Reactor SMR's are closest to licensing and deployment
  - Designed to be inherently safer and simple
  - Primary reactor system inside a single factory built containment vessel
  - Higher dependence on passive systems to simplify operation and design

5



## Idaho's Carbon Free Power Project (CFPP)

### Land Use Agreement (2/17/2016)

- DOE and UAMP signed an agreement to select, develop and operate a Small Modular Reactor (SMR) nuclear power plant at INL
- Agreement allows an NRC license for a commercial power plant to operate on an approved site
- INL and CFPP operations will be separate. Interfuses and access are established in the land use agreement
- CFPP will operate under local, state and federal regulations
- DOE water rights are not committed
- INL established an SMR team to support the CFPP and future SMRs

### Siting Status (March/April 2016)

- INL is working with CFPP to support an NRC approved site selection process meeting DOE's goals to deploy an SMR
- INL's expert knowledge of successfully operating multiple reactors is key
- Sites throughout Idaho and Utah were initially reviewed. Final candidates are all at INL
- Highest scoring sites were down selected and evaluated on additional data at each round
- Three rounds of down selects resulted in "final four" candidate sites
- Preferred site will be identified soon, then site characterization will begin
- Operating SMR planned for 2023

6

## Global Security Challenges

Enabling the warfighter, Intelligence Community and first responders

Global security against nuclear and radiological threats

Secure and resilient electric grid

Nuclear nonproliferation safeguards and security

Wireless security and spectrum crunch

Secure industrial control systems across critical infrastructure sectors

**National & Homeland Security**  
Positioned to address the world's most challenging problems in:

- Critical Infrastructure Protection and Resiliency
- Nuclear Nonproliferation
- Physical Defense Systems

7

## Energy and Environment Science & Technology: Excellence – Innovation – Impact

Advanced Transportation


Environmental Sustainability

Clean Energy

Advanced Manufacturing

8





## Center for Advanced Energy Studies

### Collaborative Energy Research

**Explore:** Energy & Environmental Research


**Educate:** Energy & Environmental Education


**Engage:** Apply Knowledge to Industry

**Enable:** Energy Transitions and Economic Development

### Core Capabilities

- Energy Systems Design and Analyses
- Nuclear Science and Engineering
- Materials Science and Engineering
- Environmental and Resource Sustainability
- Carbon Engineering
- Geological Systems and Applications
- Policy





**CAES Idaho Falls Facility**  
 • 55,000 square feet LEED Gold  
 • 8 Labs (4 with radioactive capabilities)  
 • 115 research staff

### CAES by the Numbers

In the past 5 years:

<b>\$105.1 M</b>	Research and development funding and equipment acquired
<b>3325</b>	Number of students supported by CAES-related projects
<b>814</b>	Number of publications, presentations, and proceeds CAES researchers produced

9



## The Idaho National Laboratory Site

### We Maintain:

- 890 square miles
- 111 miles of electrical transmission and distribution lines
- 579 buildings
- 177 miles of paved roads
- 14 miles of railroad lines
- 3 reactors
- 2 spent fuel pools
- Mass transit system
- Security
- Museum
- Educational and research partnerships – CAES



**3,771 Employees**  
 FY-2015 Business Volume  
**\$917M**

Idaho National Laboratory is a research and development facility.

10






### ***INL by the Numbers***

- **10 Year** anniversary of INL
- **14 States** have a National Lab *(there are 17)*
- **5<sup>th</sup> Largest** employer in Idaho
- **\$917M** business volume
- **\$130M** to Idaho subcontractors and small businesses
- **\$88.6K INL Annual Salary** (vs. \$38K Idaho vs. \$51.4K National)
- **506 new** INL employees
- **9,500 visitors** to EBR-I *(8,000 in 2014)*
- **350 interns** up from 170 *from last year*
- **\$622.5K** community giving
- **175 Events** hosted by INL

11



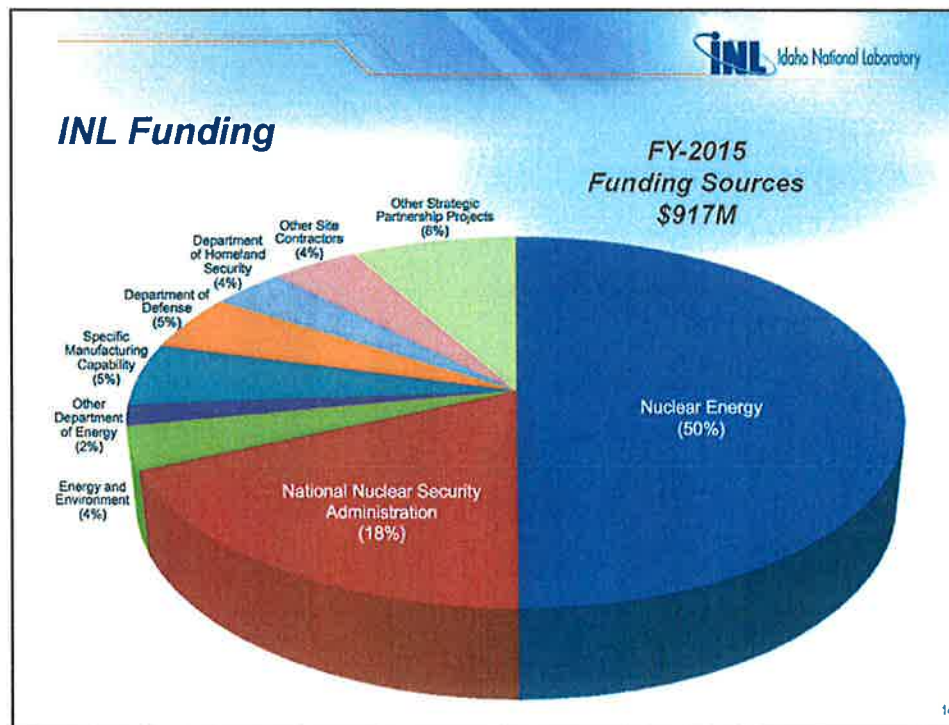
### ***Contribution to Idaho's Gross State Product***

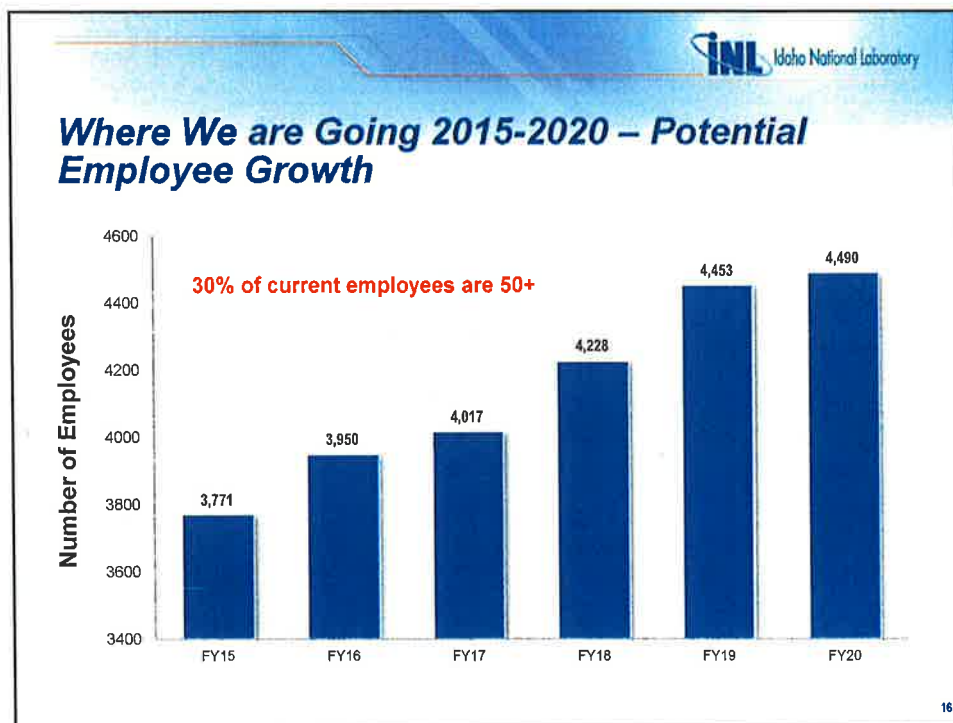
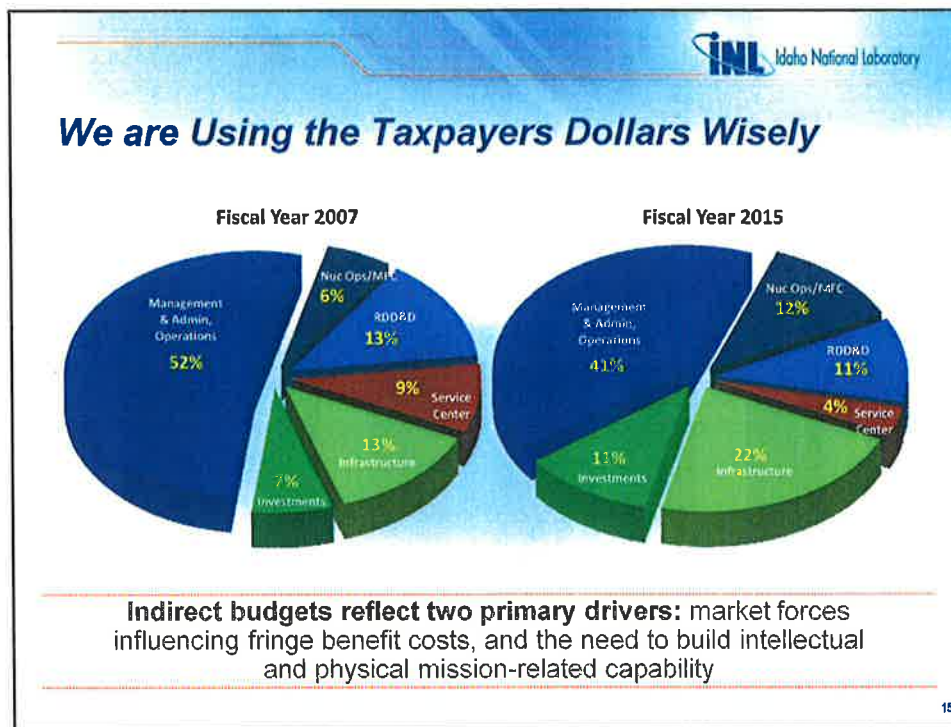
- INL is Idaho's **5<sup>th</sup> largest private employer** and **10<sup>th</sup> largest** when compared to all public and private businesses.
- The Lab adds nearly **\$1.6 billion** to the state's total output and almost **9,300** to employment in Idaho – an **8% increase** over FY14


---

- INL brought money into Idaho and generated additional value added output of nearly **\$942 million**
- More than **\$667 million of economic output** was generated through INL suppliers and employee household spending
- BEA subcontracted more than **\$130 million to Idaho subcontractors**
- INL economic impacts resulted in an estimated **\$58 million in state and local tax revenues**
- Average base salary of an INL employee is **\$88,635 annually**
- Taxes generated by INL operations account for **1.6% of total state** and local tax revenue

12








## The Perfect Storm

- Silver tsunami
- INL is growing
- Local competition
- National STEM job hiring crisis
- Curriculum does not often match hiring need
- Soft skills and on the job familiarity often lacking





## Some Solutions

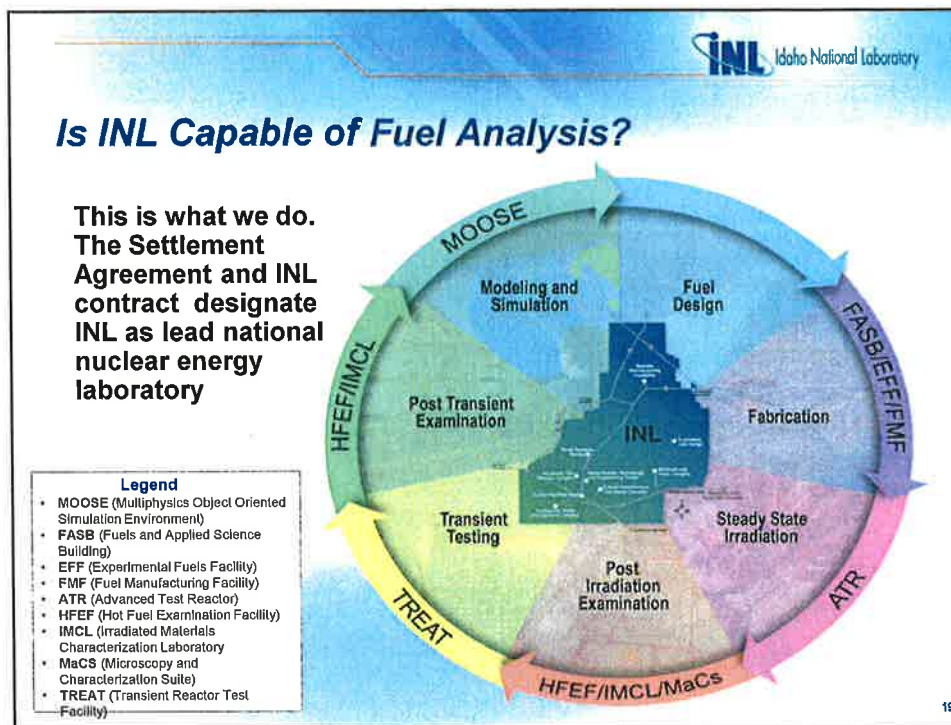
- **Hiring Solutions**
  - Improve new employee onboarding
  - Partner with University Programs to target schools that best match skill set/degree needs
  - Partner with the community to recruit to East Idaho
- **University/Workforce Development**
  - Strategically tie interns into needed disciplines
  - More joint appointments in areas of need
  - Target the universities/colleges that match best to INL need
  - Increase intern and postdoc opportunities
  - Design and build and change curriculum

- **K-12 STEM**
  - Tie to industry and INL needs - bring awareness of future career opportunities in Idaho
  - Promote and encourage diversity and rural school connections
- **Community**
  - Increase talent pipeline economic development partnership-grants, bring awareness of need, highlight and promote community/state



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**INL** Idaho National Laboratory

### Research Quantities of Spent Nuclear Fuel

- What is meant by Research Quantities of Nuclear material?
  - 2 shipments, 50 fuel rods, 4 pounds per rod, 200 total pounds, 60 years experience
- How is this work important to the Nation and International Community?
- How is this work important to Idaho?
- Is Idaho the preferred place to conduct this research?
- How is this work related to the provisions of the 1995 Batt Agreement?
- How could INL be impacted if this work doesn't come to the Lab?
- What is next?

20



### ***We Want to Build on Our Relationship with Idaho***

- **Center for Advanced Energy Studies (CAES)**
  - Continue to grow CAES
- **Workforce Development**
  - Partner with Idaho Colleges and Universities to build talent pipeline
  - Partnerships in Talent Pipeline with IDOL/IDOC to drive high wage job growth
  - More Joint Appointments in areas of need
- **K-12 STEM**
  - Focus on reading competency is critical
  - Stem Action Center – other stem efforts are important
- **Utilize INL's Capabilities**
  - National User Facilities, other capabilities are available to state, universities, colleges
  - High performance computing
  - Cyber, Computer Engineering, Materials Science are areas of obvious collaboration
- **Advancing Programs in Washington, DC**
  - Work to ensure federal officials are certain of strong support for INL in Idaho
  - Work with regional partners to increase impact of our advocacy
  - LINE Commission

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# Solving Important Problems with Thorium Reactors

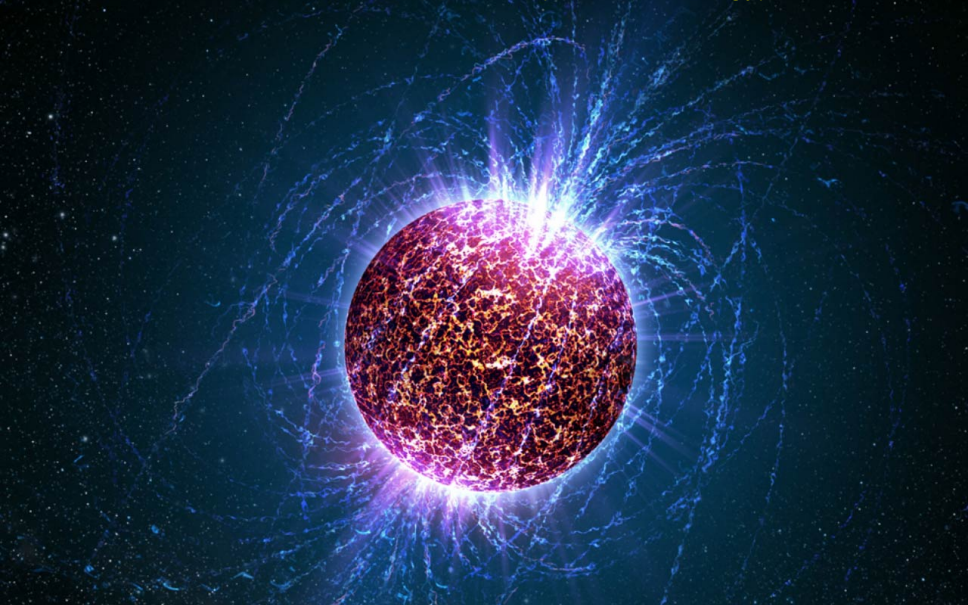
Kirk Sorensen  
Flibe Energy  
March 2, 2016



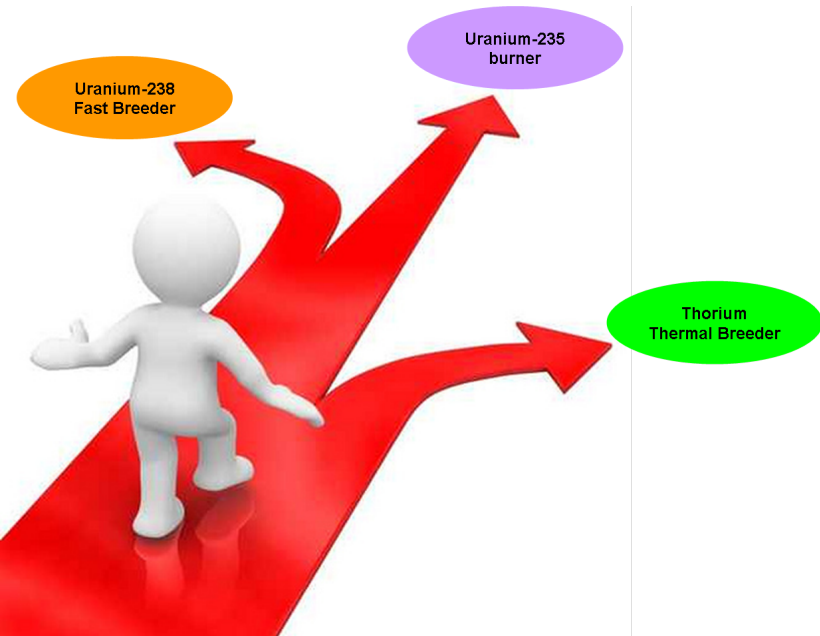
Our industrial civilization expects reliable, affordable energy.



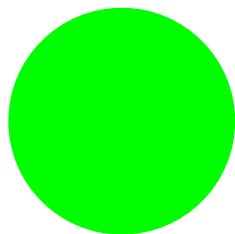
The energies that bind the atomic nucleus (nuclear energy) are approximately two million times greater than the energies that bind the atomic electrons (chemical energy).



# Three Nuclear Options

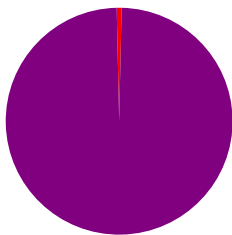
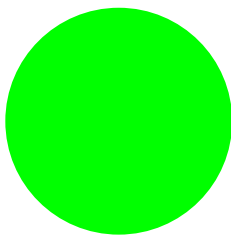
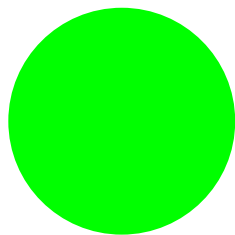


## Possible Nuclear Fuels



Natural Thorium  
100% thorium-232

Natural Uranium  
99.3% uranium-238  
0.7% uranium-235



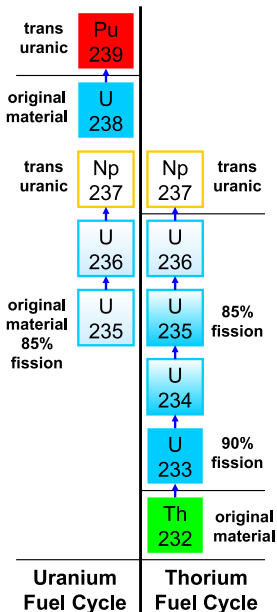
Only a small fraction of natural uranium is fissile. Most uranium and all thorium is "fertile" and can be converted to fissile material through neutron absorption.



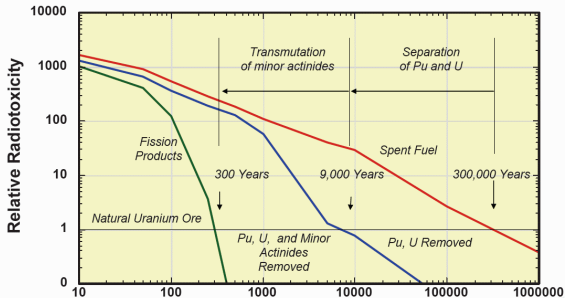




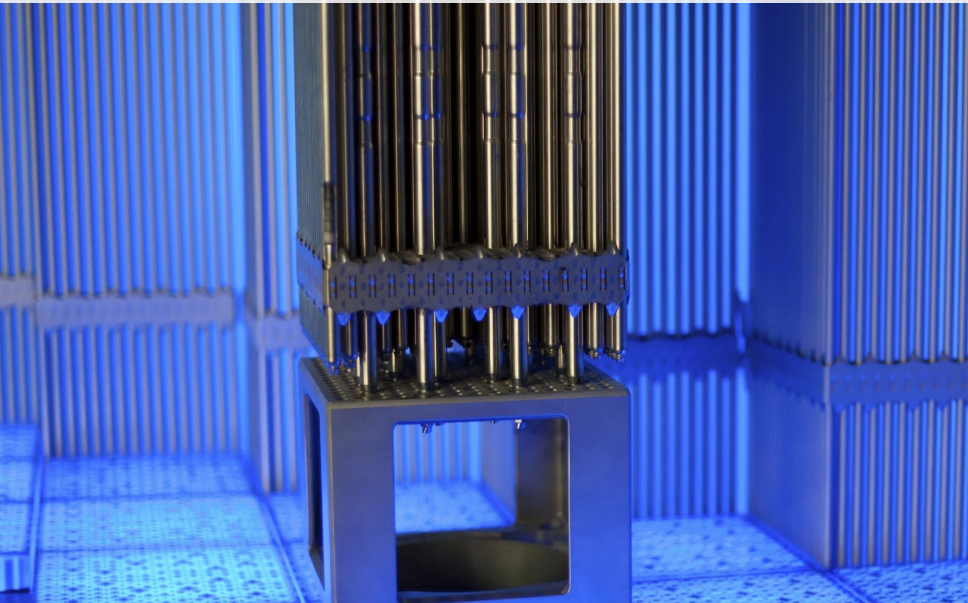
# Reducing Long-Lived Waste



- ▶ Today's approach to nuclear energy consumes only a small amount of the energy content of uranium while producing "transuranic" nuclides that complicate long-term waste disposal.
- ▶ Using thorium/U-233 in a liquid-fueled reactor can more nearly approach the ideal of a fission-product-only waste stream that reaches the same radioactivity as uranium ore in 300 years.

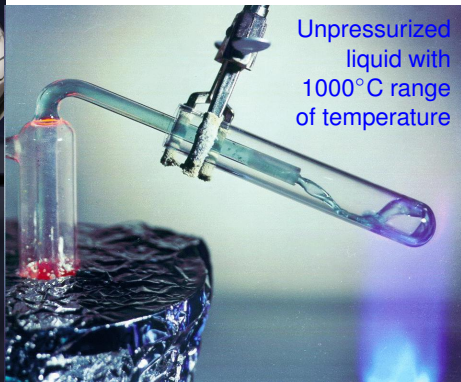
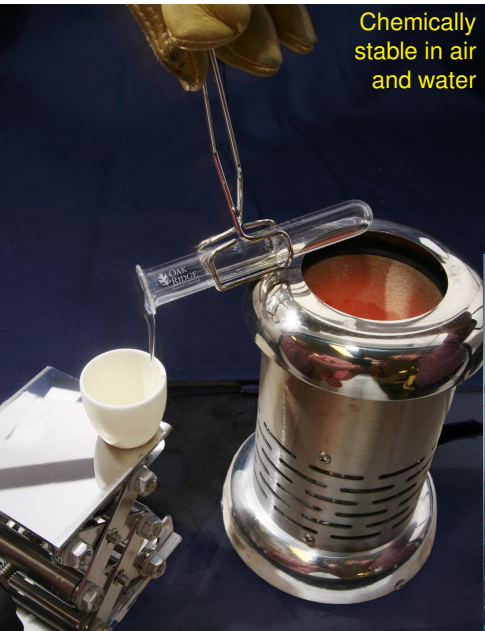


Today's nuclear fuel is fabricated with extraordinary precision, like a fine watch.



But it is that precision that makes it difficult to recycle and to refabricate. A new approach is needed that is more versatile and less expensive.

# Fluoride salts are safe and versatile

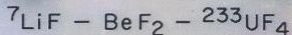


LiF-BeF<sub>2</sub> fluoride salt is an excellent carrier for uranium (UF<sub>4</sub>) nuclear fuel.

AS  
CRYSTALLIZED  
SOLID



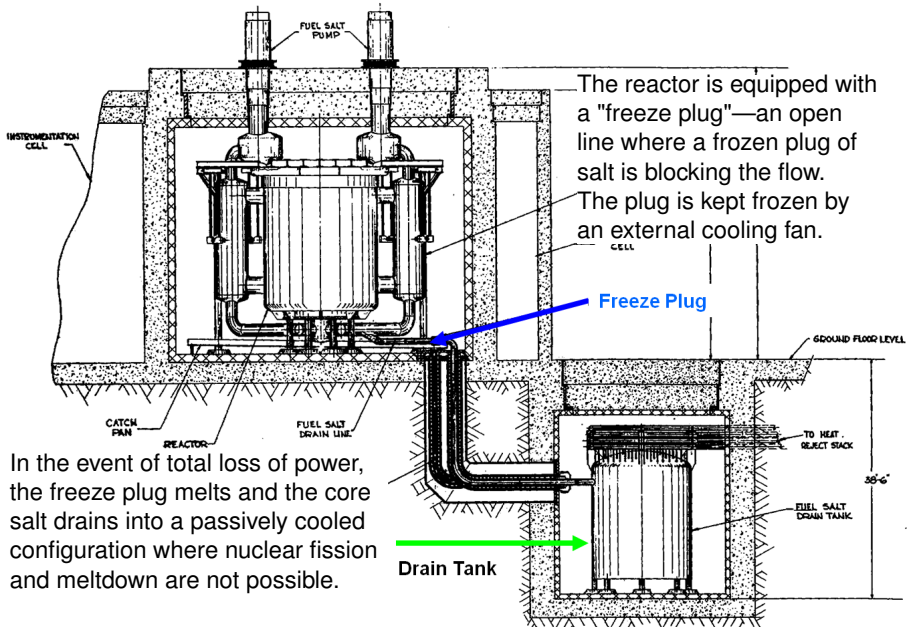
AS  
LIQUID



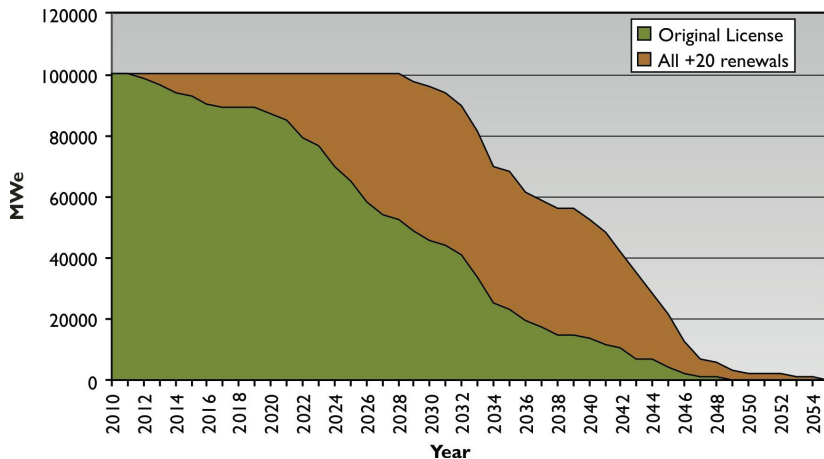
FLUORIDE FUEL FOR A MOLTEN SALT REACTOR



# Liquid fuels enhance safety options

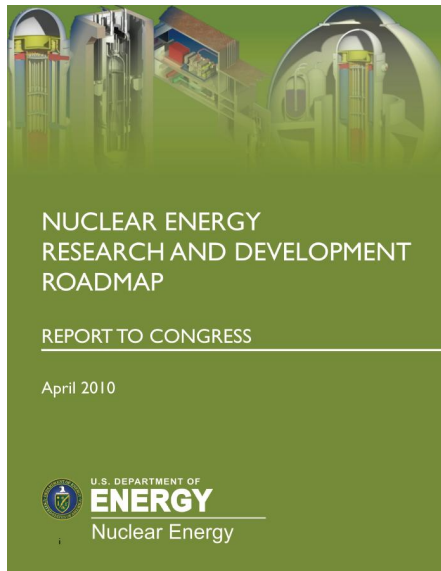


# The US Nuclear Retirement "Cliff"



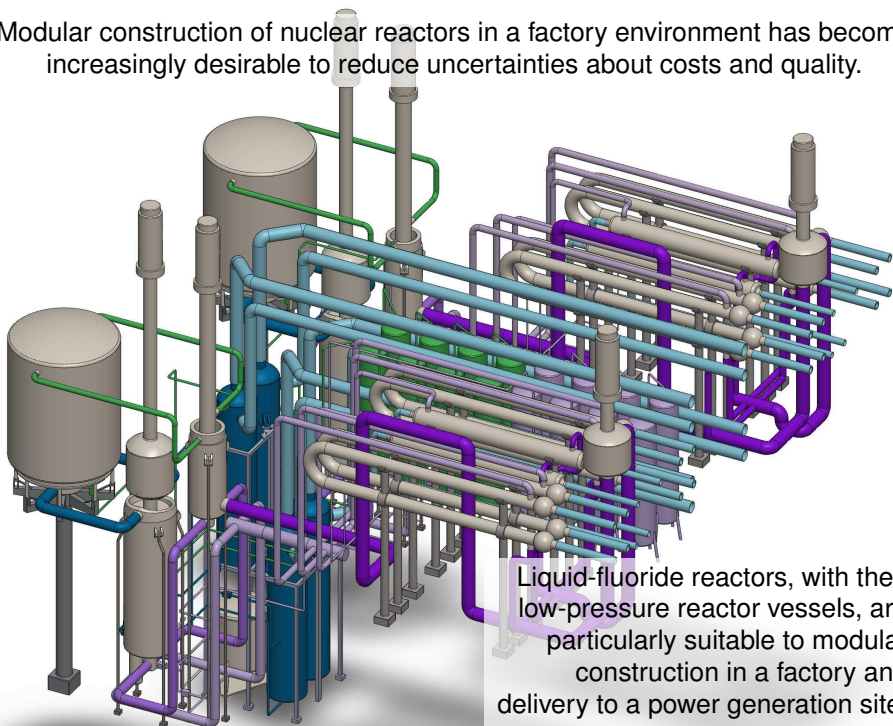
The challenge will soon grow much worse.

# DOE sees Industry Leading Future Nuclear



- ▶ "In the United States, it is the responsibility of industry to design, construct, and operate commercial nuclear power plants." (pg 22)
- ▶ "It is ultimately industry's decision which commercial technologies will be deployed. The federal role falls more squarely in the realm of R&D." (pg 16)
- ▶ "The decision to deploy nuclear energy systems is made by industry and the private sector in market-based economies." (pg 45)

Modular construction of nuclear reactors in a factory environment has become increasingly desirable to reduce uncertainties about costs and quality.



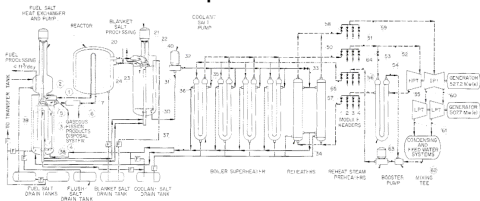
Liquid-fluoride reactors, with their low-pressure reactor vessels, are particularly suitable to modular construction in a factory and delivery to a power generation site.



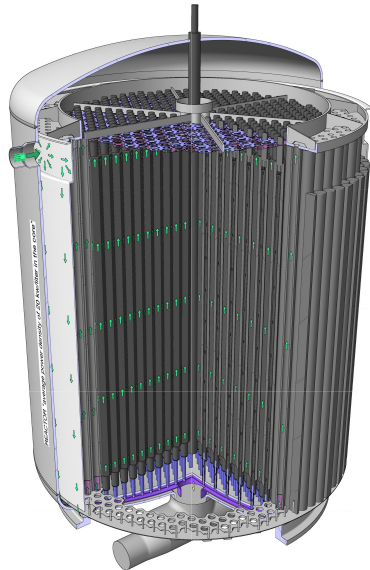
Flibe Energy was formed in order to develop liquid-fluoride reactor technology and to supply the world with affordable and sustainable energy, water and fuel.

# Thorium Reactor Technology

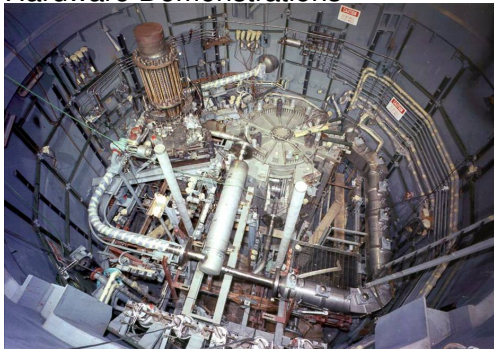
## Historical Concepts



## Modern Designs



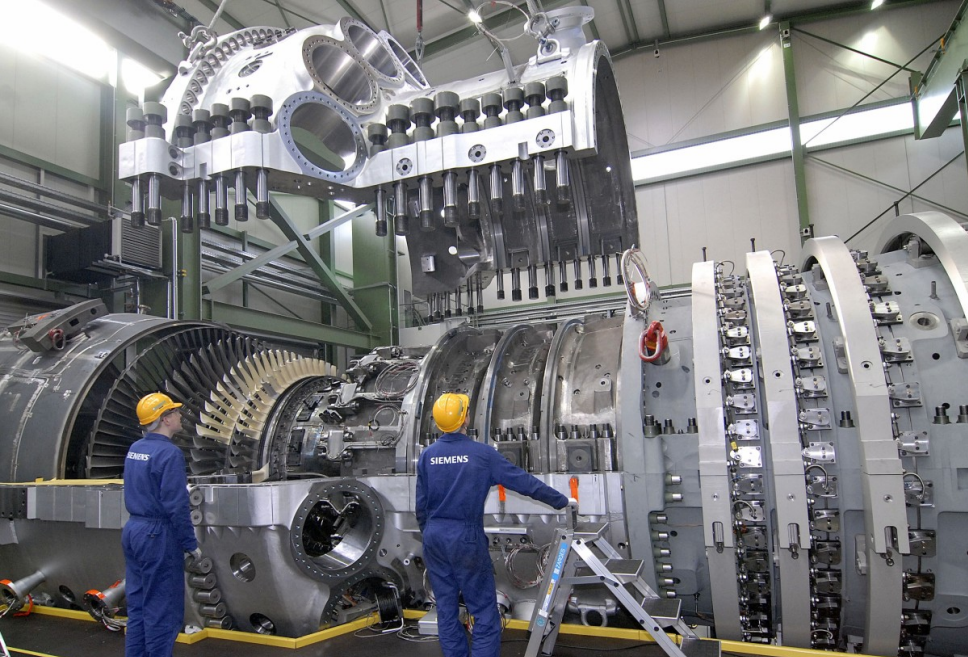
## Hardware Demonstrations







Important materials for this project (thorium and beryllium) are found in Idaho and Utah.



An abundance of advanced manufacturing opportunities exist for this technology.

## Development Principles

Advanced nuclear has been attempted many times before and has not been commercialized. What makes this approach different?

- ▶ Thorium reactors can produce inexpensive electricity essentially indefinitely, but
- ▶ Any reactor technology, conventional or advanced, will find it difficult to offer attractive returns to risk investors at current electrical prices, so
- ▶ Production of medicines from the reactor can pay for the considerable costs of development and will attract public support

# Development Strategy

- ▶ 2016: Research reactor experiment (50 kWt)
  - ▶ test fuel and blanket salt samples
  - ▶ potentially extract medical isotopes
- ▶ 2020: Research and test reactor (10 MWt)
  - ▶ extract and sell medical isotopes
- ▶ 2024: Demonstration reactor (100 MWt)
- ▶ 2027: Prototype utility reactor (1000 MWt)

# Efficient Generation of Medical Radioisotopes

Using Thorium Molten-Salt Technology

Kirk Sorensen  
Flibe Energy  
March 2, 2016

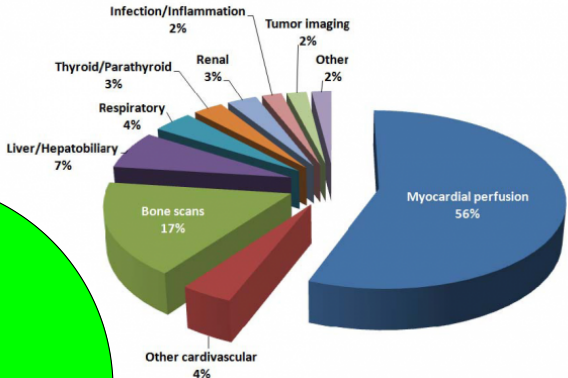
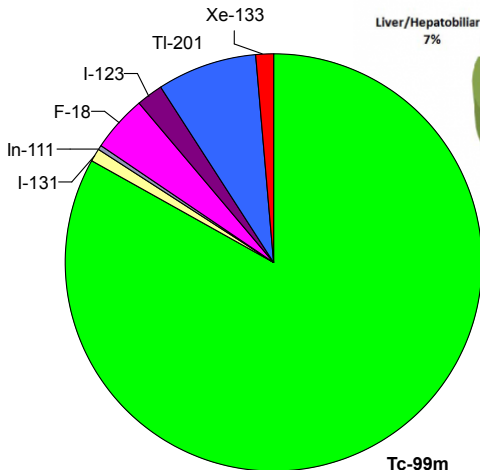
# Use of Tc-99m simplifies medical diagnostics





# Medical procedures using Tc-99m

Tc-99m, derived from Mo-99, dominates world medical radioisotope use.



Tc-99m is predominantly used in cardiac scans, bone scans, and gall-bladder scans.

This industry has a value of approximately \$2 billion per annum.

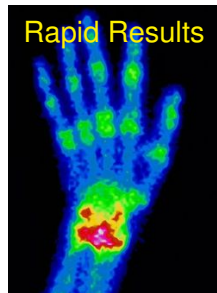
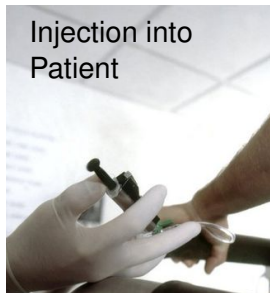
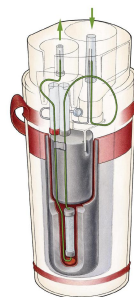
# Examples of how Tc-99m is used for medical imaging

Kit Name	Imaging Procedure
Technetium Tc-99m Medronate (MDP)	Bone Scan
Technetium Tc-99m Albumin Aggregated (MAA)	Lung Perfusion
Technetium Tc-99m Pentetate (DTPA)	Kidney Scan and Function
Technetium Tc-99m Sulfur Colloid	Liver Scan
	Sentinel Lymph Node Localization
Technetium Tc-99m Sestamibi	Cardiac Perfusion
Technetium Tc-99m Exametazime	Brain Perfusion
Technetium Tc-99m Mebrofenin	Gall Bladder Function
Technetium Tc-99m Etidronate	Bone Scan
Technetium Tc-99m Disofenin	Gall Bladder Function
Technetium Tc-99m Succimer (DMSA)	Kidney Scan and Function
Technetium Tc-99m Tetrofosmin	Cardiac Perfusion
Technetium Tc-99m Bicisate	Brain Perfusion
Technetium Tc-99m Red Blood Cell	Blood Pool Imaging
Technetium Tc-99m Sodium Pertechnetate	Thyroid, Salivary Gland, Meckel's Scan
Technetium Tc-99m Lidofenin	Gall Bladder Function
Technetium Tc-99m Mertiatide (MAG3)	Kidney Scan and Function
Technetium Tc-99m Oxidronate (HDP)	Bone Scan

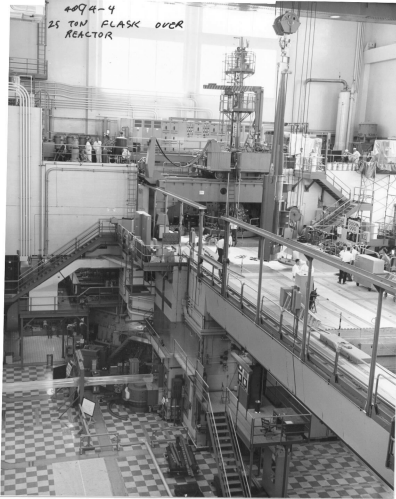
<sup>a</sup> MAA = methacrylic acid, MDP = methylene diphosphonate, DTPA = diethylene triamine pentaacetic acid, DMSA = dimercaptosuccinic acid, MAG3 = mercapto acetyl triglycine, HDP = hydroxymethylene diphosphonate.

<sup>b</sup> Extracted from the Food and Drug Administration approved pharmaceutical list, 2008.

# Medical Isotope Use



# Existing Mo-99 production reactors are old



National Research Universal (NRU) reactor, Chalk River, Ontario, Canada started up with Sputnik (1957)



High Flux Reactor (HFR), Petten, Netherlands started up with Yuri Gagarin (1961)

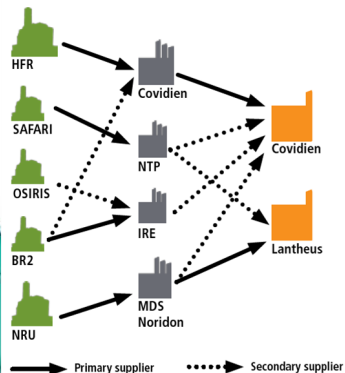
# Reactors and Mo-99 supply chains

Research reactors producing molybdenum-99 exist around the world but the largest are in Netherlands and Canada, with the Canadian reactor shutting down in 2018.

## MOLYBDENUM-99 SOURCES



## Normal U.S. Supply Chain



# Large power reactors make vast amounts of Mo-99

...which unfortunately  
is utterly inaccessible...



due to high pressure  
operation and the use of  
solid nuclear fuel.





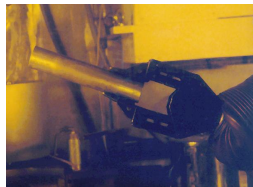
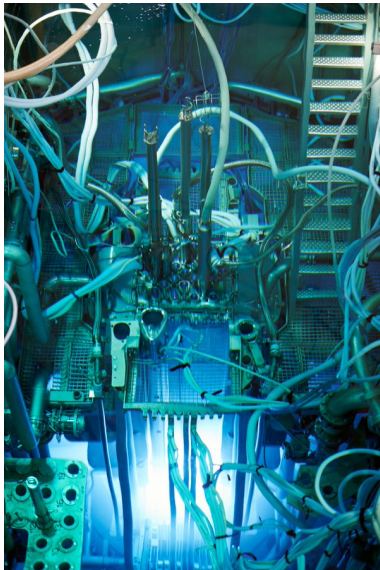
# Today's Medical Isotope Production Approach



Solid targets of highly-enriched uranium

- expensive
- risky
- supply cutoff

Short exposure (~6 days) in research reactor



Complicated chemical processing

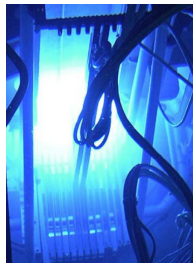
- 97% wasted
- residue causes international concern

# An Innovative Solution to the Problem

Liquid thorium fuel, impervious to radiation damage, loaded in a graphite crucible as an isotope generator.

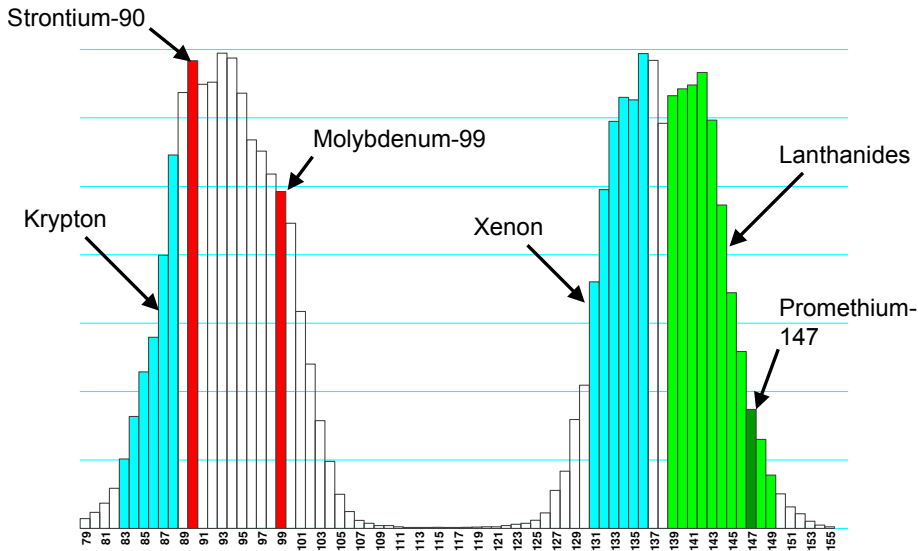


Liquid thorium fluoride target loaded into reactor flux, only desired isotope products removed.



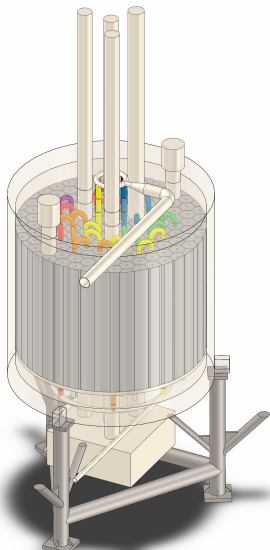
Simplified chemical processing  
— no fuel wasted  
— no U or Pu

# Molybdenum-99 is a fairly common fission product



About 5% of the fission reactions in uranium-233 generate molybdenum-99.

# Small MSR would produce globally-significant Mo99



## Modeling parameters:

- ▶ 10.5 kCi/d/MWt Mo99 generation rate
- ▶ 2.0 MW (thermal) reactor
- ▶ molybdenum removal efficiency of 90%
- ▶ 3 day transport delay (pessimistic)
- ▶ 713,000 6-day Ci/yr Mo99 production
- ▶ 6-day Ci Mo99 price range: \$225 - \$1000

## Financial results:

- ▶ Mo99 revenue of \$160 to \$713M/yr

## Global implications:

- ▶ 1.1x global Mo99 consumption in 2006

# North American Competition for $^{99}\text{Mo}$ Production

- ▶  $^{235}\text{U} (n, f) ^{99}\text{Mo}$  in solid uranium targets (LEU or HEU)
  - ▶ NorthWest Medical Isotopes, Corvallis, Oregon
  - ▶ Coqui Pharmaceuticals, Coral Gables, Florida
  - ▶ Eden Radioisotopes, Albuquerque, New Mexico
  - ▶ General Atomics, San Diego, California
- ▶  $^{98}\text{Mo} (n, \gamma) ^{99}\text{Mo}$  in solid molybdenum targets
  - ▶ NorthStar Medical Isotopes, Madison, Wisconsin
  - ▶ GE Hitachi Nuclear Energy, Wilmington, North Carolina
- ▶  $^3\text{H} (d, n) ^4\text{He}$  in subcritical aqueous uranium solution
  - ▶ SHINE Medical Technologies, Monona, Wisconsin
- ▶  $^{100}\text{Mo} (e^- \rightarrow \gamma, n) ^{99}\text{Mo}$  in solid molybdenum target
  - ▶ NorthStar Medical Isotopes, Madison, Wisconsin
- ▶  $^{100}\text{Mo} (p, 2n) ^{99m}\text{Tc}$  in solid molybdenum target
  - ▶ TRIUMF, Vancouver, British Columbia

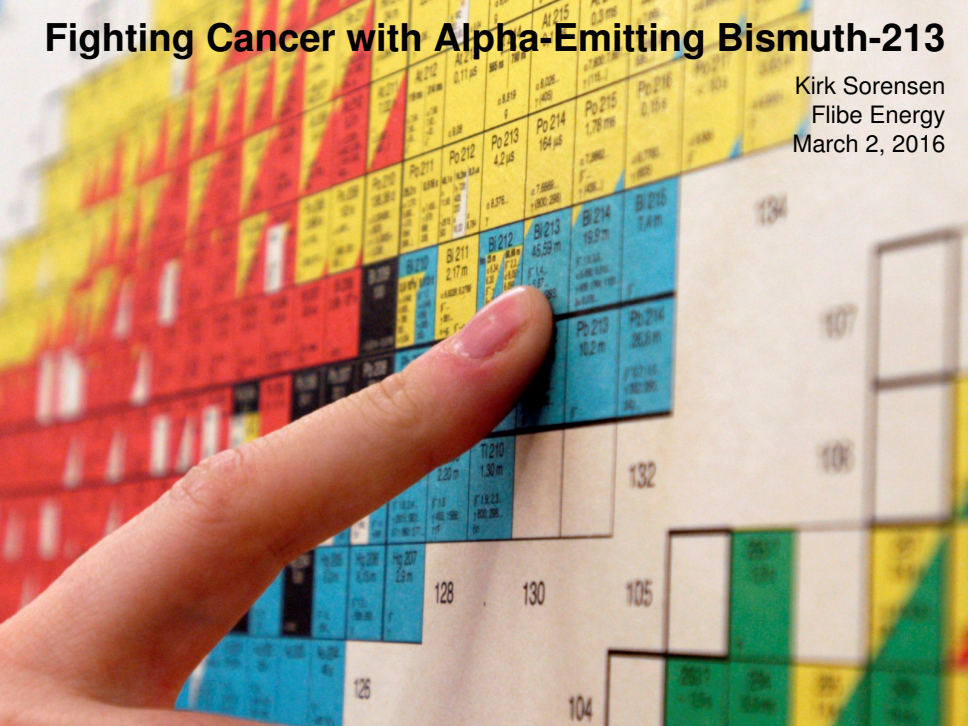
## Current Status and Accomplishments

- ▶ Letter-of-intent with NRC for Mo99 production
- ▶ Joined DOE Uranium Lease and Take-Back Program
- ▶ Completed EPRI-funded study
- ▶ Pending MOU with NRG (Netherlands reactor operator)
- ▶ Key university research relationships being finalized

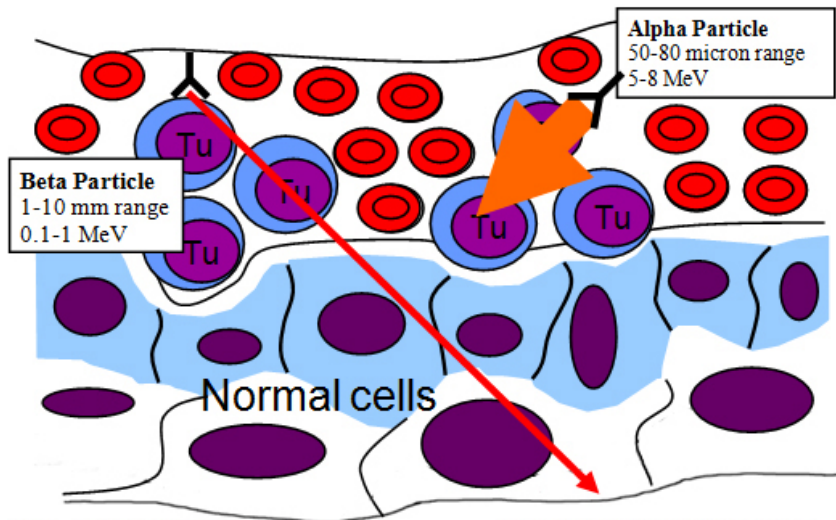


# Fighting Cancer with Alpha-Emitting Bismuth-213

Kirk Sorensen  
Flibe Energy  
March 2, 2016



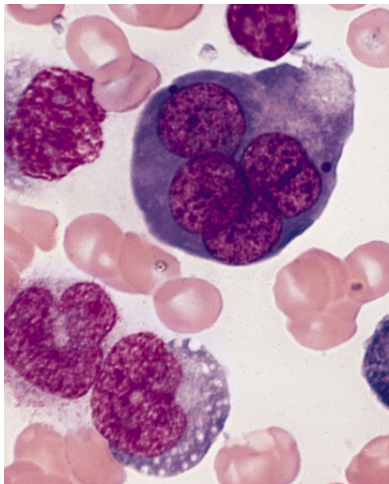
# Radiotherapy against cancer



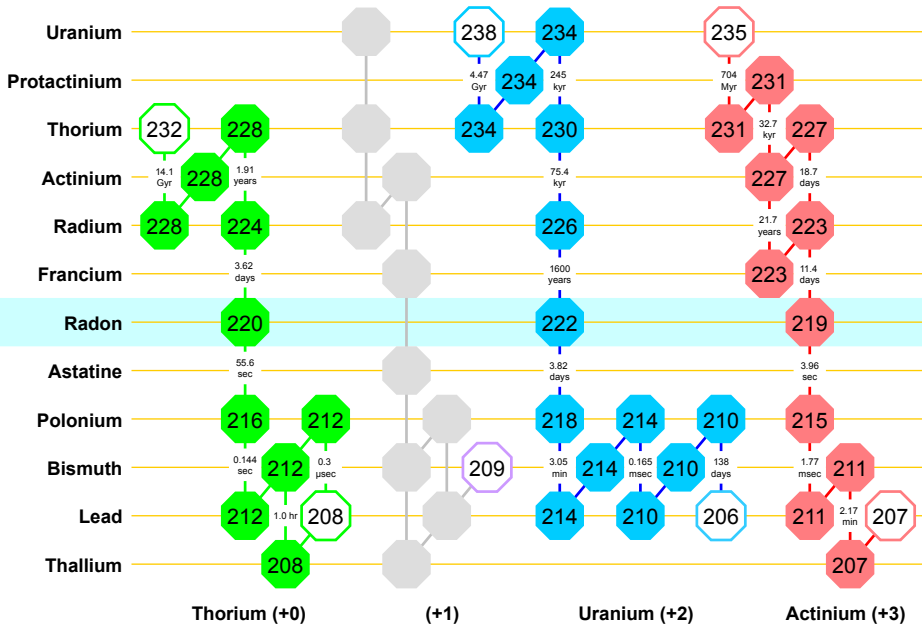
When a radionuclide emits an alpha particle, it packs a lot of energy and slows down quickly, killing cells within two cell diameters. This makes it very effective in fighting dispersed cancers like leukemia and lymphoma.

# Acute Myeloid Leukemia (AML)

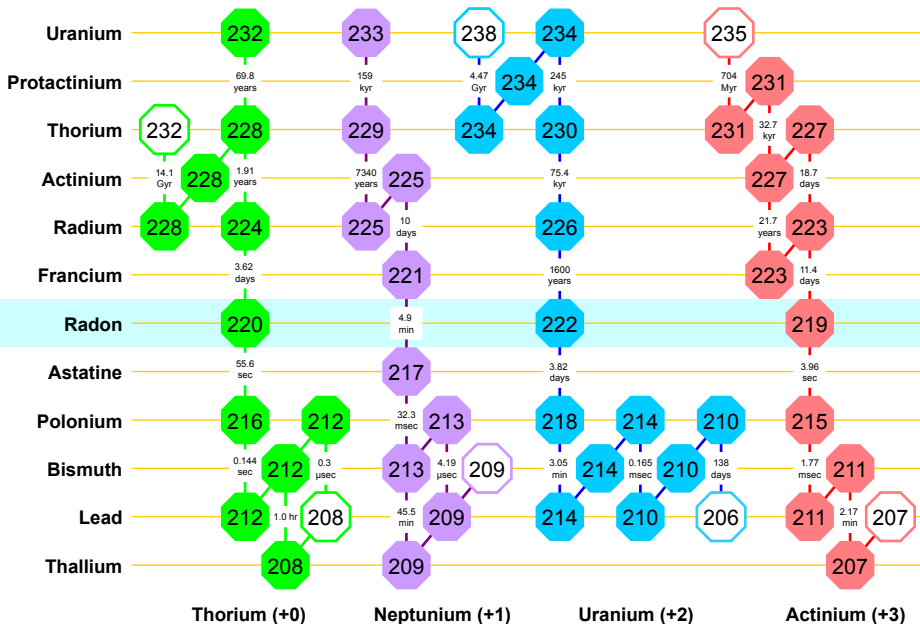
- ▶ AML is a relatively rare cancer.
  - ▶ ~10,500 new cases each year in the US
  - ▶ stable incidence rate 1995-2005
  - ▶ accounts for 1.2% of all cancer deaths in US
- ▶ Incidence of AML increases with age
  - ▶ 63 is median age
  - ▶ 90% of all acute leukemias in adults, rare in children
  - ▶ male-to-female ratio of 4:3
- ▶ Complete remission is obtained in about 50-75% of newly diagnosed adults.
- ▶ The length of remission depends on the prognostic features of the original leukemia. In general, all remissions will fail without additional consolidation therapy



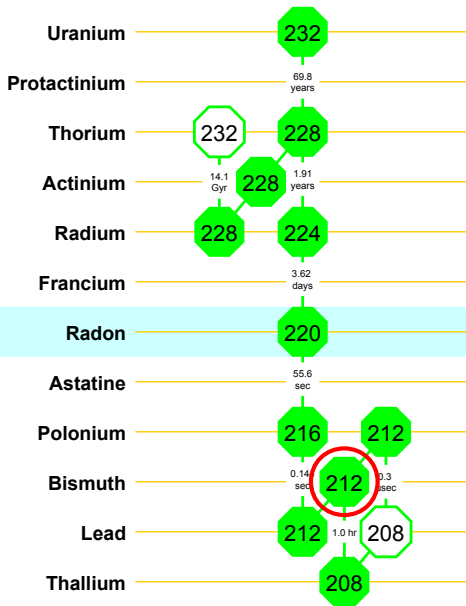
# Nuclear Decay Chains, circa 1940



# Nuclear Decay Chains



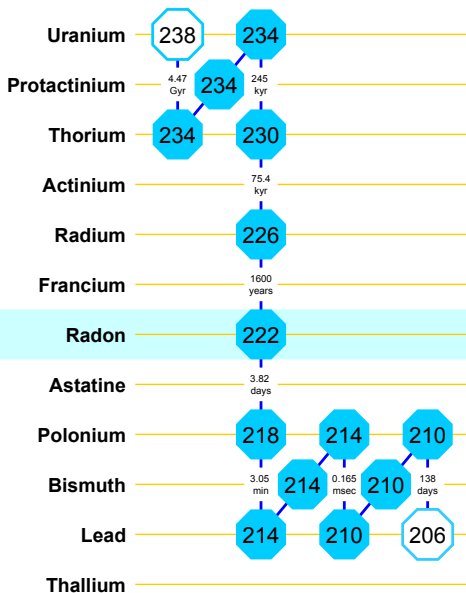
# The Thorium Decay Chain



- ▶ Thorium is abundant on Earth and it would be ideal if a suitable alpha-emitting radioisotope could be found on this decay chain
- ▶ But as the decay chain passes through gaseous radon the original inventory is dispersed to a degree
- ▶ Bismuth-212, with a one-hour half-life, has been considered but it has disadvantages
  - ▶ 35% of the decays are to thallium-208, a hard-gamma-emitting radioisotope

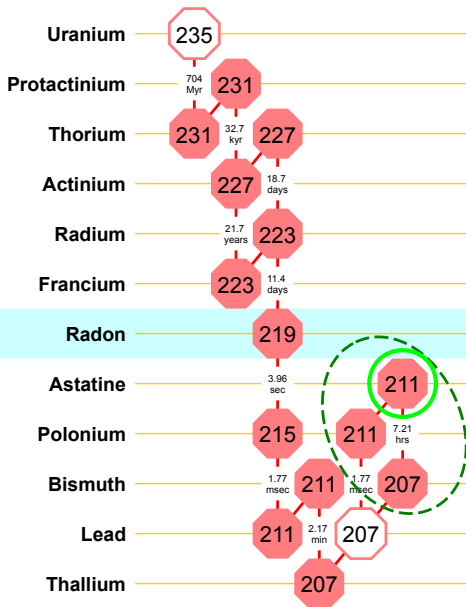


# The Uranium Decay Chain



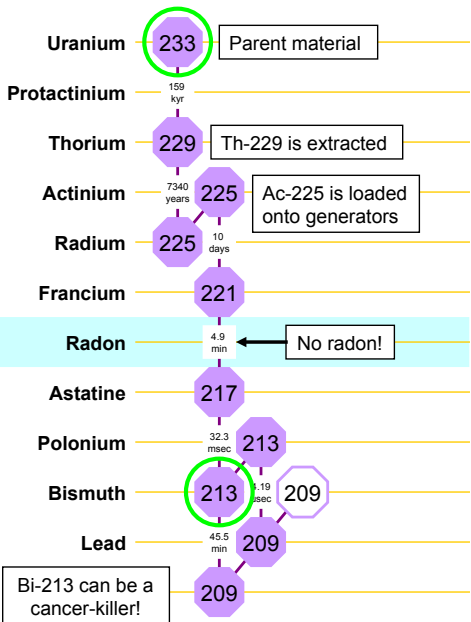
- ▶ Uranium-238 is also abundant on Earth and it would be ideal if a suitable alpha-emitting radioisotope could be found on this decay chain
- ▶ But as the decay chain passes through a longer-lived gaseous radon isotope (Rn-222) and the original inventory is significantly dispersed
- ▶ Beyond that, there are no suitable alpha-emitting radioisotopes on this chain
  - ▶ Lead-210 has a 22-year half-life beta-decaying to Polonium-210, which has a 138 days half-life—much too long to be effective in targeted alpha therapy

# The Actinium Decay Chain



- ▶ Uranium-235 is quite rare on Earth
- ▶ It also passes through gaseous radon, leading to inventory dispersal
- ▶ There are no suitable alpha-emitting radioisotopes on this chain
  - ▶ Bi-211 with 2 min half-life is too short
- ▶ Artificially-produced Astatine-211 can be made in small quantities in particle accelerators by bombarding natural bismuth with alpha particles
  - ▶ Quantities are limited by the slow reaction rate

# The Neptunium Decay Chain



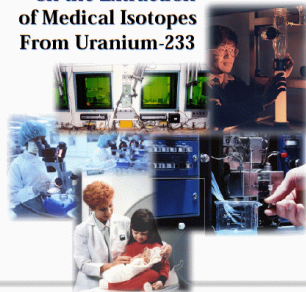
- ▶ This natural chain is completely extinct on Earth, but we have resurrected it by creating uranium-233 from thorium in nuclear reactors.
- ▶ Only this chain skips over radon altogether!
- ▶ Bismuth-213 is arguably the very best isotope for targeted alpha therapy
  - ▶ 45 minute half-life—ideal for delivery
  - ▶ 2.2% of the time it directly alpha-decays to thallium-209
  - ▶ 97.8% of the time it beta-decays to polonium-213 which immediately alpha-decays to lead-209
  - ▶ Ends in stable and non-toxic natural bismuth (active ingredient in Pepto-Bismol)
- ▶ The world inventory for U-233 is stored in one place—ORNL building 3019...and it's slated to be destroyed...

# Congress Recognized Value of Th-229

“Ac-225 and Bi-213 are currently derived from purified Th-229 extracted from U-233 at ORNL. The only practical way at present is to derive these isotopes from the natural decay of Th-229. Th-229 is produced by the natural decay of U-233. Ac-225 is the product being shipped to medical facilities. Bi-213 is separated from the Ac-225 at the hospital and combined with the targeting agent.

“Bi-213 appears to be very potent, so only a very minute quantity may be needed to treat a patient...on the order of a billionth of a gram.”

## Report to Congress on the Extraction of Medical Isotopes From Uranium-233

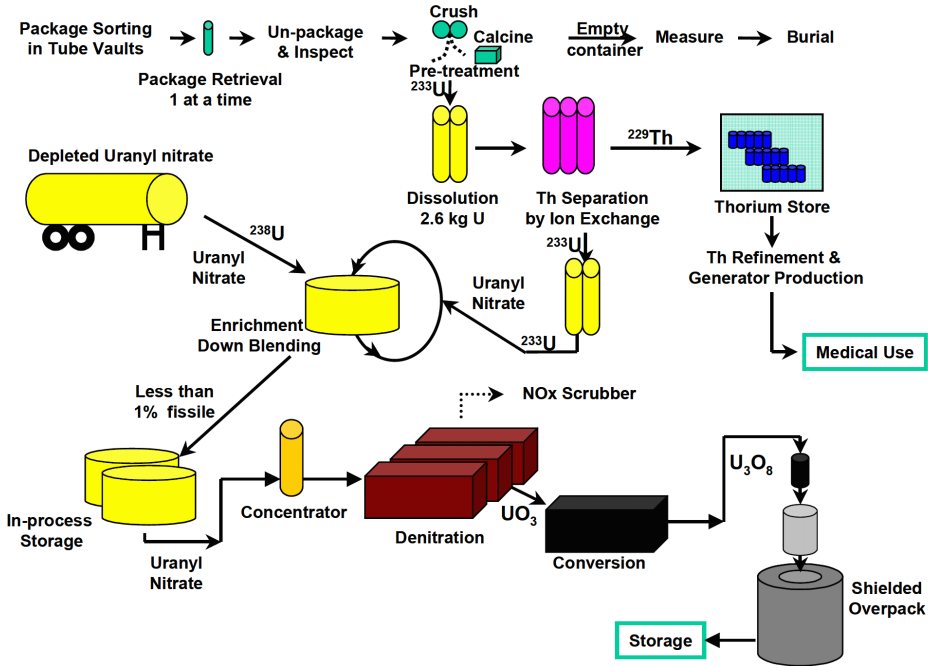


U.S. Department of Energy  
Office of Nuclear Energy, Science and Technology  
Office of Isotopes for Medicine and Science

March 2001

# Building 3019







# DOE IG Tried to Intervene to Preserve Th-229

In May 2008 the Inspector General of the DOE issued a strongly-worded report to stop the destruction of uranium-233

- ▶ “The loss of the uranium-233 will have significant impact on medical research which is now requiring a greater supply of progeny isotopes than ever before.”
- ▶ “Based on our discussion...we learned that there is currently a lack of programmatic authority to...continue providing progeny isotopes from uranium-233.”
- ▶ “Both the U-233 inventories are now controlled and managed by DOE-EM whose mission is to dispose of these unwanted material. **Given this responsibility, EM is proceeding with short-term actions to dispose of these materials as waste.**”



U.S. Department of Energy  
Office of Inspector General  
Office of Audit Services

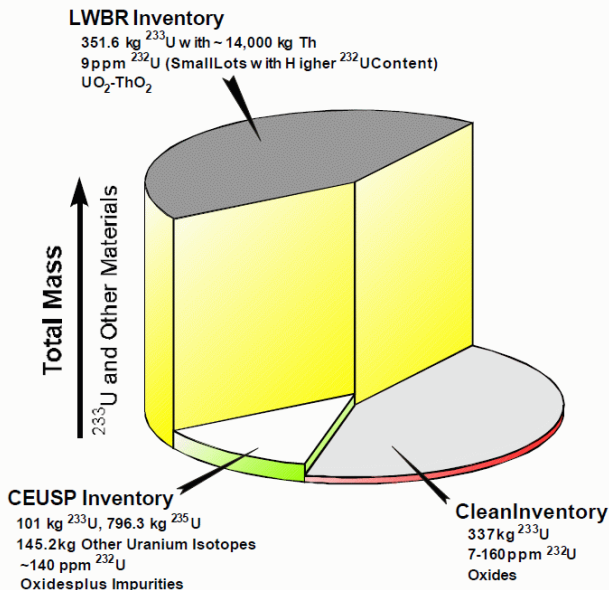
## Special Report

Meeting Medical and Research  
Needs for Isotopes Derived from  
Uranium-233

DOE/IG-0795

May 2008

# Uranium-233 Inventories in DOE





**AMENDED AGENDA #2**  
**SENATE STATE AFFAIRS COMMITTEE**  
**8:00 A.M.**  
**Room WW55**  
**Friday, March 04, 2016**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#"><u>RS24582</u></a>	UNANIMOUS CONSENT REQUEST from the Commerce and Human Resources Committee related to commerce travel insurance.	Sarah Fuhrman, US Travel & Insurance Association
<a href="#"><u>RS24537</u></a>	UNANIMOUS CONSENT REQUEST from the Commerce and Human Resources Committee related to motor vehicles and financial responsibility.	Bill Litster, Idaho Public Policy Institute
<a href="#"><u>RS24660</u></a>	UNANIMOUS CONSENT REQUEST to print related to tax deeds	Roger Seiber, Capital West
<a href="#"><u>RS24608</u></a>	RELATING TO ABORTION to create the Idaho Unborn Child Protection from Dismemberment Abortion Act.	Representative Nate
<a href="#"><u>H 436</u></a>	RELATING TO IDAHO DAY to clarify the dates of Idaho Day.	Representative Bateman
<a href="#"><u>HCR 29</u></a>	STATING FINDINGS OF THE LEGISLATURE to commemorate the 130th anniversary of the Statute of Liberty.	Representative Kloc
<a href="#"><u>H 426</u></a>	RELATING TO STATE'S GUARANTY AND BONDHOLDERS to provide that guaranteed bonds that are advance refunded and bond proceeds held in escrow no longer have the benefit of the guaranty.	Jace Perry, State Treasurer's Office
<a href="#"><u>H 427</u></a>	RELATING TO THE IDAHO BOND BANK ADMINISTRATIVE FUND to appropriate funds to the Idaho Bond Bank Authority and to authorize reimbursement of costs.	Jace Perry, State Treasurer's Office
<a href="#"><u>H 464</u></a>	RELATING TO DUTIES OF THE STATE TREASURER to address a gap in code concerning the investment of funds.	Jace Perry, State Treasurer's Office

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman McKenzie	Sen Siddoway
Vice Chairman Lodge	Sen Lakey
Sen Davis	Sen Stennett
Sen Hill	Sen Buckner-Webb
Sen Winder	

COMMITTEE SECRETARY

Twyla Melton  
Room: WW42  
Phone: 332-1326  
email: sstaf@senate.idaho.gov

MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Friday, March 04, 2016

**TIME:** 8:00 A.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Lodge, Senators Davis, Hill, Winder, Siddoway, Lakey, Stennett and Buckner-Webb

**ABSENT/ EXCUSED:** None

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**CONVENED:** **Chairman McKenzie** called the Senate State Affairs Committee (Committee) to order at 8:02 a.m. with a quorum present.

**RS 24582** UNANIMOUS CONSENT REQUEST from the Commerce and Human Resources Committee related to commerce travel insurance.

**Sarah Fuhrman**, representing the US Travel Insurance Association (USTiA), explained that the USTiA discussed the subject of the legislation with the Idaho Department of Insurance (Department) and moved forward with the legislation as currently drafted. Additional conversations revealed that the Department was not comfortable with the legislation, or the concept behind it. This RS is for the purpose of discussing the issue over the interim with the intent to come back next year with legislation that everyone can agree on.

**MOTION:** **Senator Davis** moved to send **RS 24582** to print. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

**RS 24537** UNANIMOUS CONSENT REQUEST from the Commerce and Human Resources Committee related to motor vehicles and financial responsibility.

**Bill Litster**, representing the Idaho Public Policy Institute, asked the Committee to print the RS that would raise the auto insurance limits from \$25,000 to \$50,000. **Mr. Litster** noted that the rates have not been increased since 1983. As a result, many people have medical treatment cut off prematurely. County funds, catastrophic health care funds, Idaho Medicaid, and the Crime Victims fund pay for many cases each year due to the auto insurance limit.

**Senator Davis** asked why this legislation is being brought so late in the session. He asked **Mr. Lister** if he had secured a commitment from Chairman Patrick to hear the bill if it is printed. **Mr. Litster** stated that a companion bill required review of the language by the insurance industry and he waited to address both bills at the same time. **Mr. Litster** added that he has not secured that commitment from Chairman Patrick.

**Senator Winder** asked whether **Chairman Patrick** would yield to a question. **Chairman Patrick** agreed. **Senator Winder** asked whether this issue would be given a hearing and inquired if there was sufficient time to see it through the legislative process. **Chairman Patrick** responded that the bill would receive priority and said he intends to give it a full hearing; the rates need to be updated.

**MOTION:** **Senator Davis** moved to send **RS 24537** to print. **Senator Buckner-Webb** seconded the motion. The motion carried by **voice vote**.

**RS 24660**

UNANIMOUS CONSENT REQUEST to print related to tax deeds.

**Chairman McKenzie** announced that because there is still work related to the language of this legislation, he will hold the RS in Committee at the request and consent of the sponsor.

**RS 24608**

RELATING TO ABORTION to create the Idaho Unborn Child Protection from Dismemberment Abortion Act.

**Representative Nate**, District 34, stated that the purpose of this bill is to ban a brutal abortion procedure. He explained that this legislation would ban the dilation and extraction (D&E) procedure performed on a living, fully formed, unborn baby. This is commonly known as a dismemberment abortion.

**Representative Nate** illustrated the nature of this type of abortion procedure, quoting U.S. Supreme Court Justice Anthony Kennedy in the *Stenberg v Carhart* decision, "The fetus, in many cases, dies just as a human adult or child would. It bleeds to death as it is torn limb from limb." He said that Justice Kennedy stated there is legal precedence for this found in the U.S. Supreme Court's 2007 ruling in the *Gonzales v Carhart* decision that upheld a ban on partial-birth abortion, also known as an "intact D&E" procedure. Because of the precedent established by the Court, the U.S. Supreme Court would likely uphold a ban on D&E dismemberment abortions performed on living, fully formed, unborn babies. He continued to quote the court cases that would uphold **RS 24608**.

**Representative Nate** stated that the RS would not create an undue burden, similar to the ban on partial-birth abortion, because there are at least five other methods that can be used and are considered safe and effective for the mother. In summing up the legislation, **Representative Nate** explained that this legislation seeks to remove one method of abortion, dismemberment abortion, a brutal and gruesome procedure. He stated that this bill demonstrates the respect for and value of the life of the unborn while still preserving the U.S. Supreme Court's direction to not create an undue burden.

**Senator Davis** asked if there is an opinion from the Attorney General (AG) on the current RS. **Representative Nate** replied that there is an opinion. He explained that he believes there has been some confusion with the AG's office on this issue due to the four separate D&E procedures. The opinion focuses on the partial-birth abortion ban and suggested language to make Idaho's law coincide with the *Gonzales Decision*, which has been done in this bill. However, it is unclear where the AG stands on the dismemberment procedure because it seems his opinion is based upon the partial-birth abortion ban.

**Senator Davis** asked if it is the intent of the presenter to speak with the AG about his concerns and get a different opinion on **RS 24608**. **Representative Nate** responded that he would indeed be happy to do that. In a full hearing legal expert testimony could be brought in to address that question as well. **Senator Davis** clarified that having another hearing will involve having the AG's office assure the Committee that they believe in the bill.

**MOTION:**

**Senator Davis** moved to send **RS 24608** to print. **Senator Lakey** seconded the motion.

**Senator Stennett** stated that the reason for her objection to the motion is based on her concerns that other states have had similar legislation only to have it deemed unconstitutional. She would like to pass legislation that she knows is going to meet constitutional muster. Furthermore, she was disturbed about some of the verbiage. She stated that it is appropriate, when discussing medical procedures, to use medical terms.



**SUBSTITUTE  
MOTION:**

**Senator Stennett** made a substitute motion to hold the bill in Committee. **Senator Buckner-Webb** seconded the motion.

**Senator Siddoway** stated that he shares the same concerns as Senator Davis. He doesn't want to put legislation out there that would go to court, lose in court and fortify the opposing side more than it fortifies pro-life proponents. Without a positive guarantee that this bill does that, he is reluctant to proceed; but he will support the original motion.

**Senator Buckner-Webb** spoke in favor of the substitute motion to hold the legislation in Committee. She addressed her issue with definitions in general and with the definition of "medical emergency" included in the RS. She then quoted from page 3, lines 3-6, stating that "No such condition may be determined to exist if it is based on a claim or diagnosis that the woman will engage in or conduct in which she intends to result in her death or in substantially irreversible physical impairment."

**Senator Buckner-Webb** then stated that she interpreted the passage to mean that if the woman is considering suicide, the preference would be for her to commit suicide rather than to terminate her pregnancy. **Senator Buckner-Webb** stated that she found some of this language problematic and asked if the sponsor understood the language as she had interpreted it. **Representative Nate** responded by quoting section 14: "Serious health risk to the unborn child's mother means that in reasonable medical judgement, she has a condition that so complicates her medical condition that this necessitates the abortion of her pregnancy to avert her death or to avert serious risk of substantial and irreversible physical impairment of major bodily function, not including psychological or emotional conditions. No such condition may be determined to exist if it is based on a claim of diagnosis. The woman will engage in conduct which she intends to result in her death or the substantial and irreversible and physical impairment of a major bodily function."

**Representative Nate** then summarized saying that the last four sentences did not qualify as a serious health risk to the unborn child's mother. **Representative Nate** acknowledged that he isn't a medical attorney; refinement of text is the value of a full hearing so those questions will be cleared up. **Senator Buckner-Webb** restated her question, is it the intention for a woman to kill herself rather than terminate her pregnancy? **Representative Nate** responded that would not be his determination.

**Senator Davis** spoke against the substitute motion stating that the section referenced by Senator Buckner-Webb was traditionally thought of as a self-defence mechanism; it includes an emotional component as a basis for allowing it, but additionally where a woman would have to choose between her life and the life of her unborn child. He emphasized that those are hard decisions. He stated that there is probably still value in printing the bill. This would allow the parties involved to know what the language is and then the State can collectively look at the language and determine whether there is a better way to survive judicial scrutiny; that would allow a meaningful public conversation.

**Senator Buckner-Webb** asked whether it would be the intent of the Committee to hear this bill during the legislative session. **Chairman McKenzie** replied that, assuming the bill would be assigned back to this Committee, it would be heard based on the same concerns Senator Davis had regarding an opinion from the Attorney General's Office.

**Senator Hill** stated that they don't hold bills at the desk and it would be assigned back to this Committee; it is up to the Chairman whether or not the bill would be heard. This is an extremely important issue and there are other criteria to determine whether or not it gets a regular public hearing. **Senator Hill** will not be supporting the substitute motion. The issue needs to be heard before the public even though it doesn't get advanced.

**Senator Lakey** spoke against the substitute motion, reiterating the importance of the abortion issue. He stated he is happy to support as many lawful restrictions on this practice as possible while making sure that if challenged in court, the State would win. He stated that printing this RS would facilitate additional discussion with the AG's office and enable the Committee to accept the language or make a modification to the language. He stated it is important to print this and then have those discussions.

**Senator Stennett** agreed that this is an important bill.

**Vice Chairman Lodge** expressed concern that this RS has come to the Committee so late and wasn't started on the other side of the rotunda; there are so many sponsors from the House. She shared her concern about times the Senate has passed bills and the resulting cost of litigation. She stated she would support the original motion if the sponsor would work to make sure the language is much more acceptable so the State will win in court.

**Senator Buckner-Webb** stated that should the legislation come back to the Committee for a full hearing, she would like it to come back in such a way that it gives both sides the opportunity to present a compelling argument and that the result would be what is best for the people of Idaho.

**Chairman McKenzie** stated that the substitute motion to hold **RS 24608** is before the Committee. The motion failed by **voice vote**.

**Chairman McKenzie** stated that the original motion to send **RS 24608** to print is before the Committee. The motion carried by **voice vote**. **Senators Stennett** and **Buckner-Webb** asked to be recorded as voting nay.

#### **H 436**

RELATING TO IDAHO DAY to clarify the date of Idaho Day.

**Representative Bateman**, District 33, explained that **H 436** improves the wording of current statute, which he read. **H 436** strikes the dates of March 3 and March 5, leaving March 4 as Idaho Day. President Abraham Lincoln signed an act creating Idaho Territory on that day in 1863. If Idaho Day were to fall on a Sunday or a Saturday, it may be celebrated on the preceding Friday or the following Monday.

**Representative Bateman** said 2015 was the first observance of Idaho Day with at least 100 schools and various historical societies celebrating throughout the State. He shared that in the House, the theme of the Idaho Day celebration is "Idaho Heroes, Past and Present," by recognizing Idaho's past and present Governors (see attachment 1). **Representative Bateman** then shared his story about a 14-year-old boy who attended his first rally 63 years ago; that 14-year-old kid had the audacity to go up on stage to talk to all those very important people. Some were irritated, but one, Robert E. Smiley, took time with him, showing him that he was just as important as anyone else on that stage. Forty years later Representative Bateman was elected to the House of Representatives for the first time, met Governor Smiley and told him the story.

#### **MOTION:**

**Senator Davis** moved to send **H 436** to the Senate Floor with a **do pass** recommendation. **Vice Chairman Lodge** seconded the motion.

**Chairman McKenzie** commented that we do have a rich heritage in Idaho, adding that on the previous day he had an opportunity to look at the original Idaho State Constitution and the names of the people who signed it. He commented on the small part that each of us play in the history of the State. It is amazing to watch that history unfold here at the Capitol.

**Senator Winder** commented that Representative Bateman has announced that he would not seek reelection and this may be the last time he will testify before the Committee. He expressed how much he enjoyed getting to meet

Representative Bateman and getting to know him. He always enjoys the beautiful notes and letters he sends, referring to his remarkable penmanship, which is a true art form that is disappearing in our country. He added his appreciation of Representative Bateman's passion for Idaho, commenting that he wore a blue tie and a blue jacket today just to say thank you.

**Senator Buckner-Webb** said she hoped Representative Bateman would return to visit.

The motion passed by **voice vote**.

**Chairman McKenzie** stated that **HCR 29** is particularly timely considering that there are thousands of refugees at the border of Greece and Macedonia trying to get into Europe. In this country, there is some opposition to refugees fleeing war-torn parts of the world based on the country they are from or based on their religion. It is good for us as a nation to reflect upon our heritage and he thanked the sponsor for bringing this Resolution.

## **HCR 29**

STATING FINDINGS OF THE LEGISLATURE to commemorate the 130th anniversary of the Statue of Liberty.

**Representative Hy Kloc** thanked the Committee for the opportunity to present **HCR 29**. There are no more recognizable symbols of America than the Flag and the Statue of Liberty and **HCR 29** is an opportunity for Idahoans to recognize the Statue of Liberty on her 130th anniversary. **Representative Kloc** referred to a handout of a manifest page from the ship; the USS *General R. L. Howze* dated October 18, 1949 (see attachment 2a). The first name on the manifest is Szlomo Kloc. Szlomo later became "Sam," and Luba became "Libby." Sam and Libby Kloc were the parents of Hy Kloc. Hy's brother Jakob became Jack, and Chaim later became Hy, who was born in a displaced person's camp in Essen, Germany, at the end of World War II. **Representative Kloc's** parents and brother were survivors of the Holocaust; the rest of the family, uncles and grandparents, and his older sister were not so fortunate. His family waited in the camp for four years to come to America. When **Representative Kloc** was two years old, his family found themselves sailing into New York Harbor under the watchful eyes of the Statue of Liberty. His mother picked him up so he could see and as she was pointing to the Statue, she said, "Look, America!" (see attachment 2b).

**Representative Kloc** remarked that, to him, the Statue of Liberty was always America. He said he now finds himself in a position to be able to say "thank you" to America for giving him and his family a home and for the opportunity to live in a free country. His parents would be very proud of their youngest son, Chaim, today, as he presents this resolution to this legislative body. On behalf of his family and on behalf of those people who have families who came through Ellis Island and saw the Statue of Liberty, this is a reminder to all Americans that we live in the greatest country in the world. **Representative Kloc** read from the proclamation, "To all Americans, the Statue of Liberty stands eternal as a symbol of the freedom which has been made a living reality in the United States for men and women of all races, creeds and national origins who have united in allegiance to the Constitution of the United States and to the imperishable ideals of our free society."

**Representative Buckner-Webb** stated she appreciated that the resolution not only reminds us to take time to appreciate where we have been, but to reexamine where we are going and to remember what this beacon of light – the United States – means to so many people in the world. We should keep that in our hearts as we make decisions about what we should do in the future. She thanked the sponsor for bringing HCR 29 to the Committee.

**Senator Hill** thanked **Representative Kloc** for this legislation, commenting that for the many people who have been to the Statue of Liberty, it truly is a reverent, holy

experience to remember those who saw the statute as a beacon of hope as they entered this Country. He commented that he keeps a picture of the Statue of Liberty he took from the Staten Island Ferry two years ago. It reminds him daily of the freedoms we enjoy.

**Senator Winder** thanked **Representative Kloc** for sharing his personal story and for making those present realize the importance that immigrants and refugees have in our country and our history. Looking around the room, he didn't see anyone that would be considered a Native American, so everyone in the room would be considered immigrants; people that have come from different places in the world to share this great country and to share the ideals that the Statue of Liberty represents.

**Vice Chairman Lodge** emphasized that America is a fabulous place. It brought back a memory of when she and Senator Davis were at a conference at the World Trade Center two weeks prior to September 11, 2001. He said "Let me show you something" They walked into another room and looked down at the Statue of Liberty. It was a moving experience that left footprints on her heart. Two weeks later the building they stood in was gone.

**MOTION:**

**Senator Buckner-Webb** moved to send **HCR 29** to the floor with a **do-pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

**H 426**

RELATING TO THE STATE'S GUARANTY AND BONDHOLDERS to provide that guaranteed bonds that are advance refunded and bond proceeds held in escrow no longer have the benefit of the guaranty.

**Jace Perry** from the State Treasurer's Office, introduced this "clean-up bill" and provided background on bond financing and the purpose of the bill. There are two types of refunding: the first is called a current refunding, where bond proceeds are used to pay off the old bond then the investors are paid in full. The second type of refunding is an advanced refunding; when the bonds are issued there are call dates that provide protection for investors. There is a future date and that bond cannot be paid before that date. Advance refunding happens before the call date and the proceeds of the new bond are placed in an irrevocable escrow that secures the refunding of that bond. When the call date occurs, the escrow funds are used to pay the investors on that bond. The current code has the same intent as the revised language but is confusing.

**Mr. Perry** explained that the Treasurer's office worked with the bond counsel, financial advisors, and underwriters that work specifically with the school bond guaranty program, to craft language that would remove the state guaranty when the bonds were being considered for refunding. The new wording clearly states that the guaranty will be removed once the bonds have been refunded and the irrevocable escrow is in place. A reference to section 57-504 has been inserted that clearly states that the guaranty will be removed once the bonds have been refunded and the irrevocable escrow has been put in place. From the market and investment perspective, this revision is deemed to be more secure than with the state guaranty.

**Senator Siddoway** asked how those funds can become more secure after they have been refunded. **Mr. Perry** replied that when the funds are placed in escrow, U.S. Treasuries or government-backed securities are purchased with the same maturity date as the call date. The funds from those securities pay off those bonds instead of a pledge against future revenue streams. The security funds are considered more secure.

**MOTION:**

**Senator Winder** moved to send **H 426** to the floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

**H 427**

RELATING TO THE IDAHO BOND BANK ADMINISTRATIVE FUND to appropriate funds to the Idaho Bond Bank Authority (IBBA) and to authorize reimbursement of costs.

**Mr. Perry** stated that in his capacity with the Idaho State Treasurer's Office, he also serves as the Executive Director for the IBBA. The IBBA Board is made up of five members, with the State Treasurer as the Chairman. Board membership includes a member of the Senate, a member of the House of Representatives and two Governor appointees. The Treasurer's office provides the administrative staff to facilitate the transactions that take place for the IBBA and has been absorbing those costs. Discussions between the Board and the State Treasurer's office resulted a decision to make a change. Instead of the Treasurer's office absorbing the costs of administration, they would submit those costs to the IBBA for reimbursement. That is what **H 427** does.

**Mr. Perry** said that current statute allows a cap of 0.5 percent of the IBBA's revenue to cover administration costs. During the last fiscal year, the IBBA's revenue was \$50,000; 0.5 percent was \$253. The revenue was not enough to cover the costs. The Treasurer's office absorbed those costs. He stated it is the intent of the Treasurer's office, if there are funds available, to deduct that amount from the General Fund appropriation. He clarified that the Treasurer's office was not seeking to increase its revenue stream, but to shift the cost from the General Fund to the IBBA.

**Senator Davis** shared the history of the IBBA; the purpose of the IBBA was to provide local political subdivisions with a method of funding at competitive rates that they could not obtain on their own.

**Senator Davis** stated that from its inception until about a year ago, he served on the IBBA. They found it was necessary to develop legal standards, general policies and loan policies. It matured over the years and is far more robust than before. As a result, the State of Idaho does have some risk. One of the factors the IBBA looks at is whether they have an intercept mechanism to the political subdivisions fund so that in the event that there is a default, the State has a way to intercept that revenue that would go from the State to that entity.

**Senator Davis** stated he is pleased with the work the IBBA has done, however, he has seen how much time the Treasurer's Office has been required to spend administering it. The IBBA is providing a great benefit to the schools and cities, but the State shouldn't have to pay the costs associated with that. The cap is inadequate. The updated language would fix this inadequacy. **Senator Davis** then suggested that perhaps in the future, the State should not only recover its actual costs, but a nominal risk benefit as well. He stated that for the purposes of today, **H 427** appears to be the right next step.

**MOTION:**

**Senator Davis** moved to send **H 427** to the Floor with a **do pass** recommendation. **Senator Winder** seconded the motion. The motion passed by **voice vote**.

**H 464**

RELATING TO DUTIES OF THE STATE TREASURER (Treasurer) to address a gap in code concerning the investment of funds.

**Mr. Perry** presented a brief history of the issue and stated that in 2015, the Treasurer's office became aware that there is a contradiction in statute in which the Treasurer's office was specifically prohibited from investing public endowment funds and other funds held in trust by the State.

The Treasurer's office, with the assistance of the AG's office, investigated the history involving that language to determine the reason for that language. They went as far back as 1958 and were unable to determine a specific reason for the language but concluded that the likely reason was to honor the constitutional

designation of the State Board of Land Commissioners (Land Board) as the trustee of the land grant endowment funds. Subsequently, in 1969 the Endowment Fund Investment Board (EFIB) was legislatively created. There were two Idaho Supreme Court decisions in 1976 and 1986, which helped to define those roles and responsibilities. The Treasurer's office has worked with the Land Board to craft this language and incorporate the understandings from those decisions into the language presented in **H 464**.

**Mr. Perry** described the process when an agency receives money, deposits funds into an account and then those funds are sent to the Treasurer's office. The Treasurer's office does not segregate those fund and separate them in the process of investing them; they all go into one pool. At the discretion of the EFIB, those funds are then withdrawn from the Treasurer's accounts and invested as they see fit within the guidelines and different endowment pools.

The terminology referring to investing from the perspective of the Treasurer's office isn't necessarily a long-term investment on the endowment funds; it is the short term cash management of the funds as they flow in through the normal operations and then out to the end investment through the EFIB. There are some other trusts in the State and it is unclear as to whether the Treasurer's office had the authority to receive those. This updated language clarifies that the Treasurer's office has the authority to invest any funds that they deposit. This bill doesn't take any authority away from anybody, rather it authorizes the Treasurer's office to receive those funds in its normal operations and then turn around and, at the discretion of those bodies, invest those funds long term.

**Senator Davis** referred to the audit that took place two years ago, and related it to the attribution of risk and loss. He asked whether this would impact how risk attribution would affect subsequent transaction. **Mr. Perry** responded that the Treasurer's office would continue to operate the way they had in the past. It wouldn't change the processes or operation, and he didn't believe it would change any of the risks associated with past operations. **Senator Davis** asked if this bill only speaks in terms of the Treasurer having the statutory authority to invest idle funds. **Mr. Perry** replied affirmatively.

**Senator Winder** declared a possible conflict of interest as a current member of the EFIB. He stated that this issue came to the attention of the EFIB about one-and-a-half years ago. Within that time period, it was discovered that a small amount of liquid funds were invested for a short period of time with the Treasurer's office, although there was not any specific authority to allow them to make those types of investments despite the traditional practice. **H 464** is an effort to clean that up by authorizing that practice. This would be protection against a misuse or unauthorized use of those funds. **Senator Winder** then clarified that the bonds and cash that the EFIB manages are separate and are not considered part of this issue. This only addresses short-term use of excess funds.

**MOTION:** **Senator Siddoway** moved to send **H 464** to the floor with a **do pass** recommendation. **Vice Chairman Lodge** seconded the motion. The motion passed by **voice vote**.

**ADJOURNED:** There being no further business, **Chairman McKenzie** adjourned the meeting at 9:17 a.m.

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Senator McKenzie  
Chair

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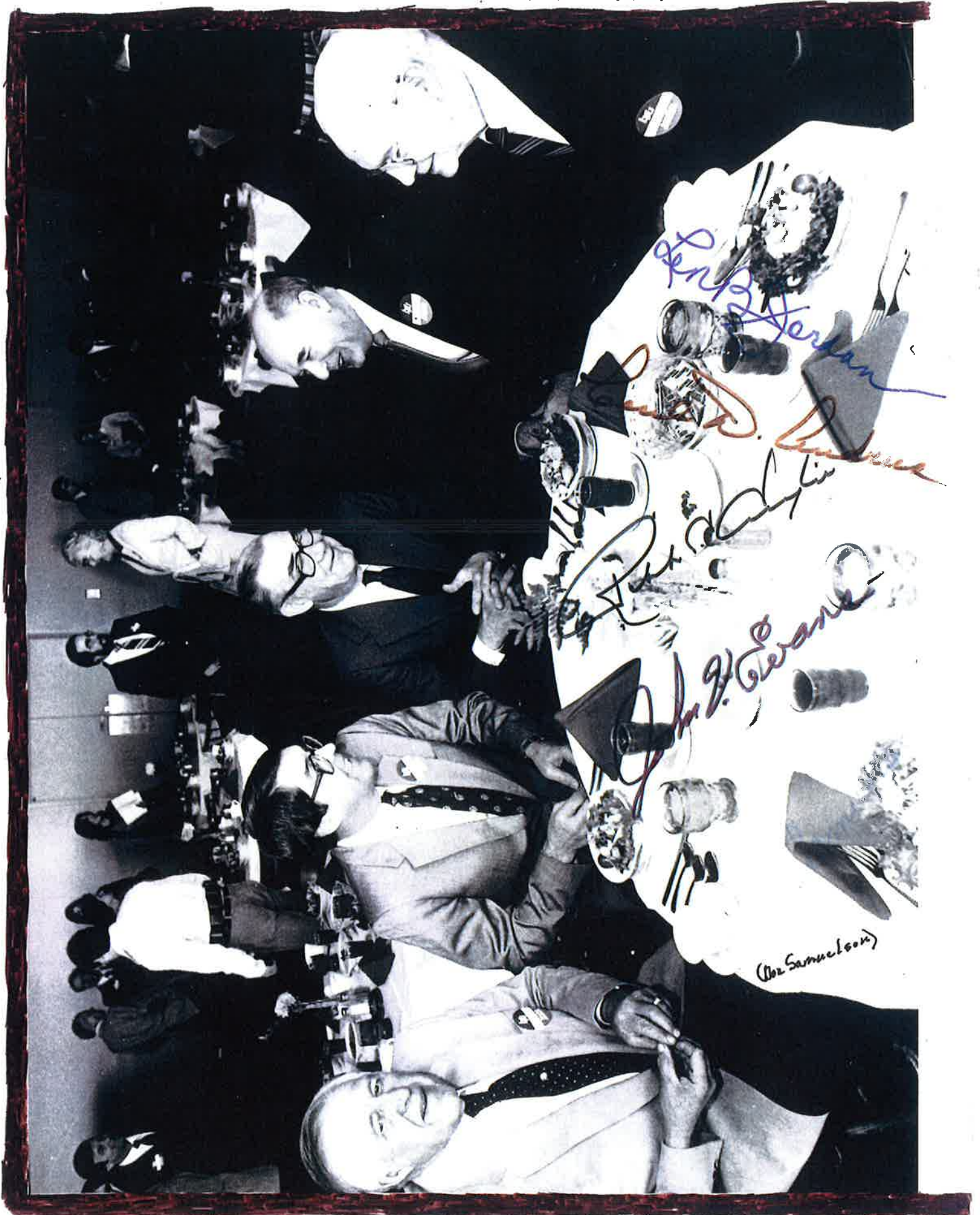
Twyla Melton, Secretary

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Assisted by Lizzie Kukla



H436 - Representative Bateman  
Attachment 1





HCR 29

Attachment 2a

Form 1-415  
TREASURY DEPARTMENT  
UNITED STATES CUSTOMS SERVICE  
UNITED STATES DEPARTMENT OF JUSTICE  
IMMIGRATION AND NATURALIZATION SERVICE  
(Rev. 1-1-49)

Form approved  
Budget Bureau No. 47-1010-3

MANIFEST No. 8

MANIFEST OF IN-BOUND PASSENGERS (ALIENS)

Class DE from Bromberg 18th Oct. 1949  
(Port of embarkation)  
arriving at port of New York OCT 22, 1949

on USAT "GENERAL HOWE" (Name of vessel)  
(1)

LINE No.	FAMILY NAME-GIVEN NAME DESTINATION IN UNITED STATES	Age (Years)	SEX (F-M)	MARRIAGE STATUS	TRAVEL DOC. No. NATIONALITY	NUMBER AND DESCRIPTION OF PIECES OF BAGGAGE	HEAD TAX COLLECTED	THIS COLUMN FOR USE OF MASTER, SURGEON, AND U. S. OFFICERS
1	KLOC Szloma 32 Ma Ma 22 Schenectady Ave. Brooklyn, NY	32	Ma	Ma	I-769954 Polish	5 23	No	177K HAS EXEMPT
2	KLOC Luba 30 Ma 212 Schenectady Ave. Brooklyn, New York	30	Ma	Ma	I-769955 Polish	-	No	
3	KLOC Jakob 7 Ma 22 Schenectady Ave. Brooklyn, NY	7	Ma	S	I-769956 Polish	-	No	
4	KLOC Chaim 2 Ma 212 Schenectady Ave. Brooklyn, NY	2	Ma	S	I-769957 Polish	-	No	
5	KLOC Stefan 29 Ma Peconic, Long Island, NY	29	Ma	S	I-769925 Polish	3	No	NCWC
6	KOLOJER Juljanna 21 1620 E. 4th St. Bethlehem, Penna.	21	F	S	I-1198299 stateless	3	No	UNAPC
7	KONIECZNY Bronislaw 20 29 Highland Ave. Ludlow, Mass.	20	Ma	S	I-456976 Polish	2	No	NCWC
8	KOSIV Stefania 43 Route 7, Box 750, Tacoma, Wash.	43	F	S	I-457011 Polish	3	No	NCWC
9	KOTWIGA Ludwik 32 384 Van Nostrand Ave. Jersey City	32	Ma	Ma	I-787106 Polish	5	No	
10	KOTWIGA Anastazja 22 Jersey City, 384 Van Nostrand Ave.	22	F	Ma	I-787105 Polish	-	No	
11	KOTWIGA Tadeusz 24 384 Van Nostrand Ave. Jersey City, NY	24	Ma	S	I-787104 Polish	-	No	
12	KOZIJ Iwan 48 1045-51 Noble St. Chicago, Ill.	48	Ma	Ma	I-457176 Polish	9	No	NCWC
13	KOZIJ Maria 42 1045-51 N. Noble St. Chicago, Ill.	42	F	Ma	I-457177 Polish	-	No	
14	KOZIJ Wira 12 1045051 N. Noble St. Chicago, Ill.	12	F	S	I-457178 Polish	-	No	
15	KOZIJ Chrystyna 7 1045-51 N. Noble St. Chicago, Ill.	7	F	S	I-457179 Polish	-	No	
16	KOZIJ Andrij 5 1045-51 N. Noble St. Chicago, Ill.	5	Ma	S	I-457180 Polish	-	No	
17	KRAPAC Istoboj 28 428 Owen Road, Wynnewood, Penna.	28	Ma	Ma	I-787259 Czech	5	No	CWS
18	KRAPAC Maria 45 428 Owen Road, Wynnewood, Penna.	45	F	Ma	I-787260 Czech	-	No	
19	KRAWCZYK Roman 31 742 Grier Ave. Elisabeth, N.J.	31	Ma	S	I-1218922 Polish	2	No	NCWC
20	KRUPENIS Lucija 52 Alderson, Monroe, W. Va.	52	F	S	I-457109 Latvian	3	No	CWS
21	KRUKLIS Elizabeth 59 Clark's Corner Hampton, Conn.	59	F	Ma	I-78728 Latvian	2	No	NCWC

REP. HY KLO  
DIST. 16

KER, HY KLOC (16)

HC R 29

Attachment 2b



**AMENDED AGENDA #2**  
**SENATE STATE AFFAIRS COMMITTEE**  
**8:00 A.M.**  
**Room WW55**  
**Monday, March 07, 2016**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#"><u>RS24652</u></a>	UNANIMOUS CONSENT REQUEST from the Commerce and Human Resources Committee relating to durable medical equipment.	Senator Guthrie
<a href="#"><u>RS24681</u></a>	UNANIMOUS CONSENT REQUEST relating to tax deeds	Chris Meyer, Givens Pursley
<a href="#"><u>H 356</u></a>	RELATED TO THE MILITARY DIVISION to address the duties of the Adjutant General.	LTC Paul Boice
<a href="#"><u>HCR 28</u></a>	STATING LEGISLATIVE FINDINGS AND RECOGNIZING the commitment, sacrifice and courage of Idaho's military families.	Col. Bruce Wong
<a href="#"><u>H 478</u></a>	RELATING TO THE PUBLIC RECORDS ACT to add an exemption for acquisition/transfer of firearms notification in certain instances.	Representative Troy
<a href="#"><u>RS24682</u></a>	RELATING TO CONCEALED WEAPONS with the purpose of making consistent state law regarding concealed weapons carry between counties and cities.	Senator McKenzie
<a href="#"><u>S 1350</u></a>	RELATING TO THE IDAHO LIMITED ARTICLE V CONVENTION ACT to provide for definitions, instructions, and limitations on authority of delegates.	Senator McKenzie

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman McKenzie  
Vice Chairman Lodge  
  
Sen Davis  
Sen Hill  
Sen Winder

Sen Siddoway  
Sen Lakey  
  
Sen Stennett  
Sen Buckner-Webb

COMMITTEE SECRETARY

Twyla Melton  
Room: WW42  
Phone: 332-1326  
email: sstaf@senate.idaho.gov

MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Monday, March 07, 2016

**TIME:** 8:00 A.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Lodge, Senators Davis, Hill, Winder, Siddoway, Lakey and Stennett

**ABSENT/  
EXCUSED:** Senator Buckner-Webb

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**CONVENED:** **Chairman McKenzie** called the meeting of the Senate State Affairs Committee (Committee) to order at 8:02 a.m. with a quorum present.

**RS 24652** UNANIMOUS CONSENT REQUEST from the Commerce and Human Resources Committee relating to durable medical equipment.

**Jesse Taylor** presented this request relating to a new draft of **S 1264**, which did not pass the Senate. He noted that licensure is important for local independent providers and for patient care. The concern with the previous bill is that it was anti-competitive. **Senator Winder** asked how this legislation is different than the previous bill. **Mr. Taylor** answered that there are extensive changes in the new bill on pages 8-9 that narrow the licensure requirements to only two specific durable medical equipment pieces; the list is on page 8, line 41, and include items such as oxygen or CPap machines. All of these devices require certified technicians to set them up. He noted that a number of hospital discharge providers experience trouble finding providers to serve the rural areas. This only applies to Medicare patients and there is a list of approved providers around the country. There is a problem when a company wins by bidding extraordinarily low; this practice is called suicide bidding. Those low bidders drive the costs down. When the hospitals contract with these companies, they do not provide the services because there is no bonding requirement. **Chairman McKenzie** commented that this request comes from the Senate Commerce and Human Resources Committee.

**Senator Stennett** asked if the companies that are winning these bids are providing actual services or are they just driving the bid down. **Mr. Taylor** replied that in most cases these companies are not providing the services. An example would be oxygen providers. Centers for Medicaid and Medicare (CMS) has determined that there are 17 oxygen providers located in the Boise area; only 7 of them fall within a 50-mile radius; some are as far away as Florida.

**MOTION:** **Senator Hill** moved to send **RS 24652** to print. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

**RS 24681** UNANIMOUS CONSENT REQUEST relating to tax deeds.

**Chris Meyer**, Attorney and Partner, Givens Pursley LLP, presented this bill. This bill brings legislation back to the beginning regarding tax deeds.

An Idaho Supreme Court ruling last year changed the way tax deeds have been thought to operate in the State. This bill seeks to remedy that ruling. If a tax payer is delinquent in his or her taxes, then a tax deed may be issued at a tax sale. It eliminates the mortgage and other financial liens and allows the county, city or irrigation district to acquire the property and convey it to another party, free of any liens. The Idaho Supreme Court ruling eliminated all third-party encumbrances including those of government entities. **Mr. Meyer** noted that the concept is simple, but the bill itself is complex in nature.

**Senator Winder** asked why this bill took so long to get to the Committee. **Mr. Meyer** answered that because there are so many interests involved and because it is so technical in nature, it took a while to get the interested parties to come to a consensus.

**MOTION:**

**Senator Siddoway** moved that **RS 24681** be sent to print. **Senator Winder** seconded the motion.

**Senator Lakey** stated that he had a possible conflict of interest pursuant to Senate Rule 39.

**Senator Lakey** asked why the references were not the same in two different sections of this bill. Page 3 refers to "easements, highways and rights-of-way" owned by the county unless expressly conveyed; on page 6, lines 12-13, encumbrances includes "easements, highways and rights-of-way" of any type. **Mr. Meyer** replied that this is an example of the technical complexity involved in this bill. He addressed the language in each section; Idaho Code § 31-808 does not deal with the creation of a tax deed but with the subsequent conveyance of the tax deed and he spoke to the intent of that section.

The motion carried by **voice vote**.

**H 356**

RELATING TO THE MILITARY DIVISION to address the duties of the Adjutant General.

**Paul Boice**, Lieutenant Colonel, Staff Judge Advocate, Idaho National Guard, presented **H 356**. He reviewed the current statutes regarding the duties of the Adjutant General. This bill clarifies or organizes the duties of this position. The organization refers to the different areas of duties, such as those of the Adjutant General's in the Idaho military division. The current bill makes no distinction of the Adjutant General's roles. He explained the organization that the Adjutant General falls into. **Lt. Col. Boice** noted that there are specific powers and duties listed in this bill.

**Senator Stennett** asked for clarification regarding the heads of the military. She asked what is different. **Lt. Col. Boice** answered that things have not changed, the bill simply clarifies and organizes in statute the duties for the State office and also the military offices of Adjutant General.

**Senator Hill** commented that the current statute and the proposed bill are completely different. He asked for clarification about the specific powers granted by this bill that are new or were not clear before. **Lt. Col. Boice** highlighted section 4 of the bill. He indicated that the shooting at the recruiting stations in Chattanooga, Tennessee, had a huge impact on National Guard sites throughout the nation. This bill allows the Adjutant General to adopt methods of security for National Guard personnel.

**MOTION:**

**Senator Lakey** moved to send **H 356** to the floor with a **do pass** recommendation. **Vice Chairman Lodge** seconded the motion. The motion carried by **voice vote**.



STATING LEGISLATIVE FINDINGS AND RECOGNIZING the commitment, sacrifice and courage of Idaho's military families.

**Bruce Wong**, Colonel, United States Air Force (Retired), asked for the Committee's support on **HCR 28** which recognizes 2016 as the year of Idaho's Military Families. He spoke about his 29 years as a military family and his own experience with other military families. He came to Mountain Home Air Force Base on September 1, 2001, from the Pentagon. He arrived in Idaho just before the terrorist attacks of September 11, 2001. He knew that many families would be affected as soldiers were deployed. He stated that Idaho is one of the most patriotic states he has ever lived in. Military families are the true energy behind the military.

**TESTIMONY:**

**Laurie Smith** testified in favor of the resolution. She reviewed her experiences as a military family. She stated that the magnitude of military members' dedication is hard to explain to those not accustomed to it. This resolution will shed light on programs for military families. She indicated that many families are left in need when military family members are deployed.

**Barbara Ann Williamson** spoke in favor of the resolution and talked about her experience with military family members, such as her husband and father. She explained the fear and horror at deployment, the joy at return and the challenge of settling back into a normal civilian life. She remarked that the military families stand for those who stand for America.

**David Wallace**, Colonel, United States Air Force (Retired), testified in favor of the resolution. He related that he has helped raised two sons that have served in the military as well. He spoke to his experience helping his son's family during the son's deployment. He indicated at how tough it is.

**Lieutenant Colonel John Wasson**, United States Army Reserve, testified in favor of the resolution. He told the Committee how important this recognition is for the military families because they have the hard job compared to the military members themselves.

**Allen Niksich**, Master Sergeant, United States Air Force (Retired), provided written and verbal testimony in favor of the resolution. He remarked that Idaho is full of patriotic and humble Americans. He spoke about the difficult nature of deployments and how military families do not complain much because they understand the nature of this lifestyle. The hope for this resolution is to highlight to the average civilian that America is still at war. He noted that 500 airmen will be returning to Mountain Home soon. He listed the special moments in the lives of military families that occur when a service member is deployed. He quoted a co-worker, who is a military spouse. She said, "Yes, we have challenges, but we are proud, too. I am proud to be a military wife and family. I am happy to deal with all the challenges because it makes me so proud to see the jets in the air and know that my husband is one of those who maintains them and keeps them flying. I am proud that we get through the struggles together; the stress, the long work hours, deployments, financial worries and even when we are physically apart."

**Master Sergeant Niksich** talked about the constant moving that military families do to follow assignments. He noted that Idaho does a good job with military families and this is a reason that many non-Idahoans in the military choose to retire in Idaho. He noted that military families care about communities (see attachment 2a).

**Paul Daigle**, Colonel (Retired), spoke in favor of the resolution. He

told the Committee about his childhood growing up as a member of a military family. He remarked that his parents thanked the Committee for this resolution.

**Melissa Vanderlaan** stood in favor of this resolution. She spoke about being a military wife. She highlighted the encouragement that military families give to each other.

**Senator Winder** commented that his wife stated that "they" were in the Navy; not just him. He thanked those who serve for their dedication. This resolution represents the appreciation of the Legislature.

**MOTION:**

**Senator Winder** moved to send **HCR 28** to the floor with a **do pass** recommendation. **Senator Lakey** seconded the motion.

**Senator Lakey** echoed his gratitude to Colonel Wong and the family members who came in support of this resolution. He noted that service members are recognized regularly, but the family members are not always recognized for their sacrifices. This is equally important. He explained that service members do the things they do because they love their country, they desire to support their comrades in arms and because they love their families.

The motion carried by **voice vote**.

**Chairman McKenzie** thanked all those who testified for their support of the military.

**H 478**

**H 478** was deferred for a week to coincide with related bills.

**PASSED THE GAVEL:**

Chairman McKenzie passed the gavel to Vice Chairman Lodge.

**RS 24682**

RELATING TO CONCEALED WEAPONS with the purpose of making consistent State law regarding concealed weapons carry between counties and cities.

**Senator McKenzie** explained that **RS 24682** relates to concealed carry of a firearm. The Sheriff's Association had expressed concern that in current statute there is language that only allows for concealed carry without a permit outside the limits of any city if you are over the age of 21. This bill is not a strike and replace, but rather an amendment to the existing statute. The goal of this bill is to expand the rights to carry concealed weapons without a permit inside city limits and to lower the age requirements.

**MOTION:**

**Senator Siddoway** moved to print **RS 24682**. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

**S 1350**

RELATING TO THE IDAHO LIMITED ARTICLE V CONVENTION ACT to provide for definitions, instructions and limitations on authority of delegates.

**Senator McKenzie** reviewed the background information relating to **S 1350**. Article V of the United States Constitution (Constitution) allows for either Congress or the states to call for a convention of states to consider amending the Constitution. It requires two-thirds of the states to call a convention and then three-fourths of the states must ratify the proposed amendments. He noted that there has not been a convention called by the states in the history of this country.

**Senator McKenzie** explained that this bill is not a call for a convention nor an application for a convention. He noted that the State had requested

that Congress keep the State informed on the number of states calling for a convention. There are still open applications for a convention. Since 2012 there have been 24 applications for a convention, with most of the applications centering around an amendment for a balanced budget.

**Senator McKenzie** stated that regardless of the opinions in Idaho as to whether or not Idaho should file an application for a convention, there needs to be a process established in statute to select delegates for a convention. He commented that under Article V, the delegates are an extension of the Legislature. This bill would allow the Legislature to name those delegates. Delegates in this bill are defined as public officials selected by joint rules of the Idaho House and Senate. Delegates would not be selected from the United States Congress. The bill then defines acceptable topics and unauthorized topics. Delegates would have to take a specific oath prior to taking office and there are defined punishments for violation of that oath.

**Senator McKenzie** indicated that the remaining sections of the bill speak to the process of selecting delegates. There would be a total of seven delegates selected. There would be two selected by the Idaho House of Representatives; two selected by the Idaho Senate; and the remaining three delegates would be jointly selected. When voting at the convention, two-thirds of the delegates votes would be required to constitute the actual vote. There would be reimbursement of expenses for the delegates pursuant to current Idaho statute. The delegates could not accept any gifts over \$50.

**Senator McKenzie** noted that opponents are concerned that a convention will result in the consideration of issues beyond the scope of the states' applications, otherwise known as a runaway convention. The Founding Fathers were familiar with this type of convention. **Senator McKenzie** indicated that regardless of the feelings surrounding a convention, it is important that the Legislature has in place a process for selecting delegates for a convention.

**Senator Stennett** asked if the language in this bill is similar to legislation in other states. **Senator McKenzie** answered that the language has been modified from other states, but it is similar. **Senator Stennett** asked if the rules are not similar across states, then how will there be equal parity if a convention is called. **Senator McKenzie** replied that if there is a convention called, setting the rules for the convention will be one of the first items of business. The bill indicates that delegates would be instructed to set rules consistent with guidelines enumerated in the bill. He explained that the parity will come because the convention will have to define its own rules. The first order of business would be to limit the scope of the convention. **Senator Stennett** noted that the Constitution provides no guidance for what the ground rules for a convention would be. She asked how the convention would agree to keep the scope down to one topic. **Senator McKenzie** answered that this would happen by rules of the convention. Every application has set limits on the convention. The Constitution has also limited the convention by requiring a ratification by three-fourths of the states for anything coming out of the convention. The safeguard is the states.

**Senator Davis** noted that this is different than previously proposed legislation on this topic. He asked that since the Idaho Legislature only meets three months out of the year, how will the delegate know what the direction of the Legislature would be? **Senator McKenzie** replied that this

bill would provide direction, as would Idaho's application for a convention (if one is made) and also from concurrent resolution of the Idaho Legislature. He anticipated that the Governor would call the Legislature back into session if a convention was called during the legislative interim because of how historic this process would be. The only authority the concurrent resolution would have under this bill would be to expand the authority already in statute. **Senator Davis** commented that a predicate to this bill should be an amendment to the Idaho Constitution allowing the Legislature to call itself into a special session to select delegates and send them to the convention with a specific charge. He asked for Senator McKenzie's thoughts on this. **Senator McKenzie** responded that this would be a logical amendment to the Idaho Constitution. **Senator Davis** asked what would happen for the selection of delegates if there was a Governor who refused to call a special session of the Legislature, the Legislature was adjourned sine die, and a convention was called for October or November. He asked if Idaho has then been precluded from participating in the convention. **Senator McKenzie** answered that Idaho would not be precluded because a procedure could be set out in the joint rules. The easiest way to set the procedure for delegate selection is to do it in rule making during the session.

**Senator Davis** remarked that his historic understanding of the Senate is that one of the first motions made at the beginning of every session is a motion to adopt as temporary rules, the rules of the prior legislative session. There are not permanent rules of the Senate. Sine die means that rules of the Senate no longer have force and effect. Any other session that follows moves quickly to the 10th Order to adopt temporary rules from the prior session. He asked if there is problem for the delegates of the convention to be subject to a joint rule if those rules do not have application post Sine Die. **Senator McKenzie** answered that the delegates are subject to the statute and the limitations therein. The selection of those delegates would be established by joint rule. The only case where a joint rule would be required is if Idaho wanted to make an application to consider a new subject for possible amendment. If this were the case, then a concurrent resolution would be needed and the Legislature would have to be called back in session if they are not currently in session. **Senator Davis** stated that he is wary of having a statute presiding over the delegates between the gap of sine die and the next session.

**Senator Davis** spoke to the bill language referring to a "bad" delegate. He asked if the House has a bad delegate, why would the President Pro Tem have a say in the replacement delegate for that delegate? **Senator McKenzie** answered that the selection of the replacement delegate would be done by the House. The investigation to determine if a delegate is "bad" belongs to both chambers. The rules that are yet to be written for governing the selection of delegates would have to say how that delegate's place would be filled. **Senator Davis** indicated that the bill states that a vacancy would be filled jointly. **Senator McKenzie** replied that the chambers would jointly fill the vacancy pursuant to the joint rules that will be put in place. The rules would provide exactly how this would be done. There is no anticipation that the rules would be made to take away the authority of either chamber to fill a position that they had originally designated.

**Senator Davis** noted the language regarding the oath makes any vote taken in violation by the delegate as null and void. The credentials of that delegate are revoked by the actions of the delegate. He put forth the

scenario were he personally would give up his seat in the Senate over the ability to vote on the issue of a 1973 Supreme Court Decision. He indicated that this is a big ask for the State to require a delegate to keep an oath regardless of personal opinions. He asked for reassurance that this should be the right public policy for the State. **Senator McKenzie** answered that the State would select delegates, such as Senator Davis, who would give up their seat over an issue but would not give up their integrity or oath over an issue. Even if two-thirds of the states misjudge their delegates and send delegates that end up violating their oaths, there still has to be a ratification by three-fourths of the states on any amendment that is put forth.

**Senator Davis** commented that we vote as states and not as delegates. He asked for clarification regarding the revocation of delegates. **Senator McKenzie** answered that it would depend on the vote of the delegate at the meeting of the state delegates. This part was not in previously proposed legislation.

**Senator Lakey** asked for clarification regarding the bill and its intent. **Senator McKenzie** replied that this bill is for delegate selection. It is not a call for convention.

**Senator Hill** asked if the Legislature can modify this statute anytime up to the time that a convention is called. **Senator McKenzie** answered yes. **Senator Hill** noted that there is no specific expiration; if a convention is called in ten years, would this bill then go into effect? **Senator McKenzie** replied that Senator Hill was correct.

#### TESTIMONY:

**Res Peters** testified in favor of the bill. She spoke about the Founding Fathers. She commented that the delegation controls are realistic and prudent.

**Don Farthingham** spoke in opposition to the bill. He noted that structurally, this bill does not work because the Legislature only has statutory authority. He read a quote from James Madison. It is the sovereign power of the people that reigns supreme. He stated that there is nothing in the bill that can bind a convention.

**Tom Mund** spoke in opposition to the bill. He stated that the Legislature makes laws, but does not enforce them. He commented that if Congress cannot understand the Constitution, then it is left up to the states and citizens to make the necessary changes. He stated that Congress believes it has substantive authority over a full range of Article V conventions. He mentioned that any legislation regarding this issue will be moot because Congress ultimately has the authority for these conventions. **Senator Davis** indicated that he believed that Congress can say whatever they want, but the convention itself will have the power to make the rules of the convention. There is benefit for most of the states coming into the convention with a set of common rules in mind. **Senator Davis** asked for Justice Antonin Scalia's remarks to the Federalist Society in 2014 on Article V issues. **Tom Mund** answered that he does not have a copy of those remarks but would try to get a copy. He indicated that the Legislature is unconstitutional in some degree and asked a hypothetical question about how the Legislature can select Constitutional delegates.

**Dale Pearce** spoke in opposition to the bill. He stated that the rationale for a convention is that the Constitution must be flawed, but it is not. It might be a bit dusty but only from neglect. He expressed his gratitude for the Committee and that they have taken an oath to uphold and defend the

Constitution. He indicated that the Constitutional Convention of 1787 was a runaway convention. He listed the names of those who are pushing the convention effort. It is good council to beware of these efforts.

**Walter Donnavan** spoke in opposition to the bill. He indicated that the language proposed by the balanced budget convention supporters also provides for consideration in the case of a national emergency. There is no indication of what constitutes an emergency. Statutes and regulations that limit delegates to certain issues in a general sense would not work. He asked for the Committee to hold this legislation.

**Brian Gross** testified in support of this bill. He stated that he is a United States Army veteran. He indicated that this bill addresses all the questions brought against previous legislation. He asked the rhetorical question, "How many more controls are necessary to get the Idaho Legislature to use their Constitutional authority to reign in the national Congress?"

**Paula Davina** spoke in opposition to the bill. She remarked that the Legislature is voting on something they cannot see. There is a tried and true way to amend the Constitution that has been done 27 times. It would be better to use the traditional means.

**Craig Jensen** spoke in support of the bill. He emphasized that the desire for this convention is created by the runaway federal government. There are two ways to deal with this type of government. The first is the Constitutional measures that are allowed and the second is that the people take matters into their own hands by means of a revolution. The 1787 convention had all the same concerns. He stated that the State of Idaho has to take some action before it becomes too late.

**Doug Davina** spoke in opposition to the bill. He remarked that this bill opens up the idea that Idaho is leaning towards a convention call. He noted that there are good legal minds on both sides of the issue. Idaho should avoid any law or rule that indicates Idaho is leaning towards a convention. He indicated that states need to consider the nullification measure in Article X of the Constitution.

**Barry Peters**, attorney, spoke in support of this bill. He gave an outline of the process for calling and having a convention. This bill is an important first step in the process. Idaho will be left "flat-footed" if this action is not taken.

**Darryl Ford** spoke in opposition to the bill. He noted that Hawaii has a list of issues to address at a convention. He indicated that the states need to get together and straighten everything out so there is no need for an Article V convention.

**Julie Lynde**, Convention of States, Idaho Legislative Liaison Support, spoke in favor of this bill. This is a necessary and prudent step for Idaho to be prepared. Regardless of Idaho's participation in calling a convention, once the necessary number of petitions is reached, Congress is required to call a convention.

**Duncan Farris** spoke in opposition to the bill. He acknowledged that this bill does not call for a convention. He quoted the United States Senate Judiciary Committee from 1984. They stated that Congress has the authority to set a convention. **Mr. Farris** said that the solution to our problems is with the Idaho Legislature. He suggested that nullification is the right course of action.



**Stephen Damron** spoke in favor of this bill. He observed that people are seeing no choice when it comes to reining in a runaway federal government. The only choice left is an Article V convention. He cited perceived abuses of the federal government.

**Daniel Dow** spoke in favor of the bill. He indicated that the reason for his support of this bill is the fear of the federal government overstepping its authority. This bill is a necessary part of addressing this issue so that Idaho will have a "place at the table."

**Carol Menges** spoke in favor of the bill. She explained that a meeting of states must be called to limit the abuses of the federal government. She listed some crises that have taken place because of federal abuse. Without the intervention of a convention of states, the overreach of the federal government will continue.

**Vice Chairman Lodge** called for further testimony that would address something that has not already be discussed.

**Roxanne Wiltzie** asked the Committee to consider if a special session could be called to determine who the delegates would be after a call for a convention is made. She noted that there is a concerted effort to dissolve the state borders and turn sections of the country into regions. She asked if a Constitutional Convention is called and a new U. S. Constitution is presented, has the Committee considered that the oath they have made to defend the Constitution will be to something that they have no current knowledge?

**Sheila Ford** advocated for the Legislature to use the power of nullification in Article X of the Constitution. The states should dictate to the federal government, not the other way around.

**Senator McKenzie** closed his testimony with a few remarks. He quoted Antonin Scalia when he was a law professor at the University of Chicago (see attachment 2). If a convention happens, Idaho would have to send delegates. Regardless, Idaho needs to set out a process for selecting delegates.

**MOTION:**

There being no further discussion, **Senator McKenzie** moved that **S 1350** be sent to the floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion. **Senator Davis** indicated that Justice Antonin Scalia talked about an Article V convention and indicated that the genius of the Constitution is its structure. Justice Scalia stated that it was a horrible idea for a convention and that this "was not a good century for a convention." **Senator Davis** indicated that he will not vote for the bill.

**Senator Hill** reiterated that this bill is not a call for a convention. He indicated that this bill seems to be a prudent safeguard if Idaho does need it. He stated his support for this bill.

**Senator Siddoway** remarked that he was concerned that those in opposition of an Article V convention speak so highly of the Founding Fathers. Though this bill does not call for a convention, the Founding Fathers put Article V in the Constitution because they thought it was necessary. The federal budget is headed to \$20 trillion in debt. To ask Congress to call a convention to reel in themselves is unrealistic. He reiterated that this bill is simply a process of selecting delegates if a convention takes place. He indicated his support for the bill.

**Senator Stennett** observed that there is no safeguard to keep our delegates focused only on the prerogatives of the Idaho Legislature when they are in the fray with delegates from other states that do not have the same focus. She indicated her opposition to the bill.

**Senator Lakey** commented that he will be supporting the bill. He reiterated that this bill does not call for a convention. He remarked that the states need to step up and fill in the gap that the federal government will not do. This bill is only a preparation for a convention.

**Senator Winder** stated that the bill is an improvement over previous proposed legislation. He stated his concern is that this bill only addresses some of the process and not the entire thing. He indicated his opposition to the bill.

**Vice Chairman Lodge** thanked all those who testified. She is concerned about an Article V convention, but this bill is to set rules. There is time to work out any problems. Idaho has to start someplace so that it can be protected. She stated her support of the bill.

The motion carried by **voice vote**. Senators Stennett, Davis and Winder asked to be recorded as voting nay.

**PASSED THE GAVEL:**

Vice Chairman Lodge passed the gavel to Chairman McKenzie .

**ADJOURNED:**

There being no further business, **Chairman McKenzie** adjourned the meeting at 10:45 a.m.

---

Senator McKenzie  
Chair

---

Twyla Melton, Secretary

---

Assisted by Michael Jeppson



## Introduction to HB 356

### Amending and Updating the Duties of the Adjutant General

Lieutenant Colonel Paul A. Boice, Staff Judge Advocate, IDNG  
Captain Stephen A. Stokes, Attorney Advisor to The Adjutant General

IDAHO NATIONAL GUARD  
OFFICE OF THE STAFF JUDGE ADVOCATE  
3882 W. Ellsworth Dr., Bldg. 440  
Boise, Idaho 83705  
208-272-5199

Idaho National Guard – Vigilant and Prepared



# References



- **Enclosure 1: Idaho Code Section 46-111.** Adjutant General (enacted in 1927, amended in 1931, 1957, 1987, and 2001)
- **Enclosure 2: Idaho Code Section 46-112.** Duties of the Adjutant General (enacted in 1927, amended in 1957, 1974, 2001, and 2011)
- **Enclosure 3: HB 356,** with corresponding references to I.C. Sec. 46-112
- **Enclosure 4: HB 356, Clean**

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# Bottom Line Up Front



HB 356 repeals current Section 112, Chapter 11, Title 46, Idaho Code, and adds a new section designated as Section 46-112.

The purpose of HB 356 is to:

1. Clearly identify the Adjutant General as the head of the Idaho Military Division
2. Clearly identify the Adjutant General as the military chief of staff to the Governor
3. Clearly set out the duties and responsibilities commensurate to each position held by the Adjutant General

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# Problem Statement



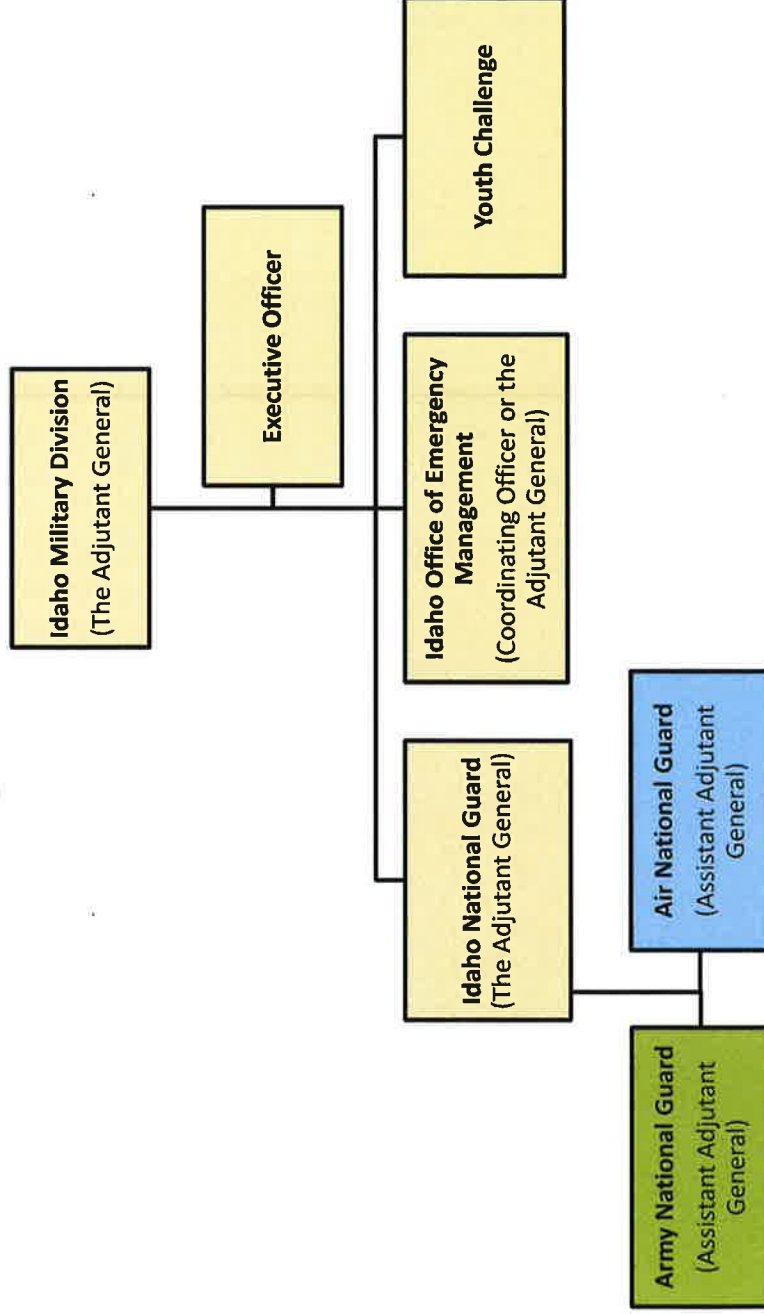
- The current 46-112 makes no real distinction between the different capacities in which the Adjutant General must function
  - Head, Idaho Military Division
  - Chief of Staff and Commander of Idaho National Guard
  - Responsible for (and may act as head of) Idaho Office of Emergency Management (fka Idaho Bureau of Homeland Security)
- The current 46-112 does not provide state statutory authority for the Adjutant General to carry out his required duties as set out by other law and regulation
- The current 46-112 is purely administrative in nature and gives little, if no, “command authority”
- The current 46-112 is antiquated and does not accurately reflect today’s operational force

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# IMD Organizational Snapshot



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# HB 356 Explained



- **Section 1: General Duties**

- Identifies the roles of the Adjutant General
  - Head of the Idaho Military Division
  - Military Chief of Staff
  - Responsibility for emergency management and emergency activities
- Allows for the Adjutant General to belong to the Adjutant Generals' Association of the United States

- **Section 2: Military Chief of Staff**

- Military advisor to the Governor
- All necessary functions to command and control the military forces of the State of Idaho
- Establish and administer a Morale, Welfare, and Recreation program

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# HB 356 Explained



- **Section 3: Head of the Idaho Military Division**
  - Coordinate the functions of the division
  - Administer the Youth Challenge program
  - Submit to the Governor, President of the Senate, and Speaker of the House an annual report
- **Section 4: Other Powers**
  - Contracting powers
  - Powers to enter into inter-agency and educational agreements
  - Adopt methods of security

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# Idaho Statutes

H 356  
LTC Boice  
Attachment 1 B

## TITLE 46 MILITIA AND MILITARY AFFAIRS

### CHAPTER 1 STATE MILITIA -- ORGANIZATION AND STAFF

46-111. ADJUTANT GENERAL. There shall be an adjutant general who shall be appointed by the governor and shall hold office during the pleasure of the governor and his commission shall expire with the term of the governor appointing him. The adjutant general shall be the commanding general of the military forces of the state and in addition to the duties delegated to him by law, he shall perform such other duties as prescribed by the governor as commander-in-chief. The adjutant general shall be commissioned in the national guard with the rank of not less than brigadier general. No person is eligible for appointment as adjutant general unless he is a federally recognized member of the national guard with current service of not less than six (6) years as a commissioned officer in the national guard of Idaho and has attained the rank of colonel or above.

#### History:

[(46-111) 1927, ch. 261, sec. 18, p. 510; am. 1931, ch. 186, sec. 1, p. 310; I.C.A., sec. 45-111; am. 1957, ch. 174, sec. 10, p. 312; am. 1987, ch. 330, sec. 1, p. 690; am. 2001, ch. 141, sec. 1, p. 507.]

§ 46-112. DUTIES OF THE ADJUTANT GENERAL.

**Idaho Statutes**

**Title 46. MILITIA AND MILITARY AFFAIRS**

**Chapter 1. STATE MILITIA - ORGANIZATION AND STAFF**

*Current through Chapter 1 of the 2015 First Extraordinary Session*

**§ 46-112. DUTIES OF THE ADJUTANT GENERAL**

The duties of the adjutant general are:

- (1) To be chief of staff to the commander-in-chief and administrative head of the military division of the office of governor.
- (2) To be custodian of all military records and property of the national guard and organized militia.
- (3) To publish and distribute all orders from the governor as commander-in-chief and perform such other duties as the governor may direct.
- (4) Subject to the provisions of section 67-5303 (j), Idaho Code, to employ such clerical and other personnel as may be required in the military division of the office of the governor.
- (5) To pay the members of the national guard when such members are to be paid from state funds.
- (6) To attend to the care, maintenance, repair and safekeeping of all federal equipment issued to the state of Idaho for the use of the national guard.
- (7) To be custodian of the seal of the office of adjutant general and to deliver the same to his successor.
- (8) To organize such units and recruit such personnel, with the consent of the governor, as may be authorized by federal law and regulations, and as may be required for the security of the state of Idaho.
- (9) To supervise the training of the national guard and the organized militia.
- (10) To make such returns and reports as may be required by the federal laws and regulations.
- (11) To coordinate the planning and execution of state activities pertaining to the inauguration of the governor of the state of Idaho and the other elected state executive officers.

#356

LTC Boice  
Attachment 1c

charge of and supervision over the construction, expansion, rehabilitation, conversion, maintenance and repair, procurement, and the collection of fees for military and nonmilitary facilities and operations within the military division.

**Cite as Idaho Code § 46-112**

**History.** Amended by 2011 Session Laws, ch. 53, sec. 1, eff. 7/1/2011.



Testimony for '2016 Year of the Military Family'

HCR 28  
Allen Niksich  
Attachment 2a

Good morning, my name is Allen Niksich. I live and work in Mountain Home. I am a retired Air Force Command Chief Master Sergeant. I had two assignments at Mountain Home AFB, totaling 14 of my 30 years in the Air Force. I retired from Mountain Home AFB a few years ago, as the lead enlisted person for over 4000 Airmen and their families, and continue to work as a civilian on base at the Airman and Family Readiness Center. My wife is also retired Air Force and we have graduated three kids at Mountain Home High School and have a fourth who is a freshman this year.

I am not from Idaho, neither is my wife, but we decided to stay and become Idahoans because we loved what Idaho has to offer and the close knit relationship we have in our state between the military and the people of Idaho. Idaho is full of patriotic and humble Americans. Military members truly appreciate their time in Idaho because they are treated with respect and dignity, regardless of their standing, color and culture...by the great people of Idaho.

In my job, I assist military families in their daily lives, whether it concerns deployments, relationship issues, financial struggles, relocation, school issues, and the general day to day challenges of being a military family. I deployed 5 times in my career and in the last few years I am finding that many military members are getting up to their 7<sup>th</sup> and 8<sup>th</sup> deployments and will hit the 10 deployment mark before they separate or retire. Just this aspect of military life brings many challenges to families that many would never understand, let alone try to attempt successfully. Military families don't complain much, they press on, realizing what they signed up and re-signed up for. However, with all the news of the world seeming to be reality TV and anything else but the continuing deployment rate of our military members and having many constantly in harms way, the average citizen doesn't appreciate that we still have military members fighting for our freedom and liberties, and families waiting for them to hopefully return to them safely.

Our hope to make 2016 the Year of the Military family would be a great opportunity to highlight that we are still at war, that Idahoans support the efforts of our military members and their families, and tell those active duty and National Guard Airmen, Soldiers, Sailors, Marines, and Coast Guardsmen, that, even with everything else that is happening in our daily lives, we, as Idahoans, still support them and appreciate their service and sacrifice to our great state and nation. At Mountain Home, we will soon be returning over 500 Airmen to their families, all safe and sound, after a six month deployment to a very hostile place. Our Boise Air Guard, the 124<sup>th</sup> Fighter Wing, will be deploying over 500 troops very soon to hostile territory for 6 months, and Mountain Home will, again, have a ~~large~~ <sup>major</sup> deployment leaving out in the Fall with large numbers. These are only the deployments I know about. No doubt the Army Guard has and will continue to have soldiers deployed and in dangerous locations as well.

Babies are born, first steps are taken, first days of kindergarten happen, athletic sports events and dance recitals commence, family member illness and deaths occur, and high school graduations are held, while the military member is thousands of miles away. A few of the heart-warming stories make the local news, but the vast majority go largely un-noticed. The cool thing is, military families are okay with that. They support each other through the good and the tough times. We chuckle when a civilian family complains about a separation for a week long business trip and wonders how they will survive until the person returns next week. Or when we call pro athletes heroes because they have such a tough traveling schedule and play out of town, away from their families, on Thanksgiving. My co-worker, a military spouse, told me yesterday...Quote: yes, we have challenges...but we are proud, too. I am proud to be a military wife and family. I am happy to deal with all the challenges because it makes me proud to see the jets in the air and know that my husband is one who maintains them and keeps them flying...and I am proud that we get through the struggles together...the stress, long work hours, deployments, financial worries...even when we are physically apart. End quote.

Imagine packing your family up every 3 to 5 years, with a couple 1 year relocations, and moving to a new community, a new state, a new country.

Military members struggle with finances throughout their military service, buying and selling homes and vehicles, kids leaving and making new friends at their next stop, wives and husbands having to find employment at a new location they will only be at for a short time, making a career impossible. Parents trying to decide the right schools for their kids and hoping they will fit in with sports and dance and debate teams. It takes a lot of effort in base helping agencies, the community and effort from the military family to get settled into a new area...every 3 to 5 years!

Idaho does a great job of welcoming and embracing military families and that is why many non-Idahoan military families choose to retire in Idaho like we did. Whether retired or still in the military, we military families embrace Idaho and Idahoans as well. A couple months ago, my co-workers covertly nominated me for a special award and I was as a finalist for the Idaho's Brightest Stars Award for volunteerism. I tell you this not to brag about myself, but to emphasize that military families understand a sense of community and volunteering. They know 'Service before Self' and they engage and become involved in their Idaho community, be they active duty or Idaho Guard families. When I put together a volunteer team to do Idaho Veterans Olympics, Idaho Patriot Thunder, Special Olympics, Cancer or MS walk fundraising teams, See Spot Walk Humane Society fundraising teams, volunteers to go to the local senior citizens home or the local elementary schools to be judges in contests or tutors, I always get more volunteers than I need.

The feeling is mutual between Idahoans and Military Families. We care about our communities and we care about each other! What better tribute can we make to all those military families, that Idaho is supporting them as they put themselves in harms way? Declaring 2016 as the Year of the Military Family displays our continued gratitude and is great recognition of their service and sacrifice.



CONVENTION of STATES (1)

MENU

LEARN

S 1350  
Senator McKenzie  
Attachment 3a[HOME\(1\)](#) / [LEARN\(1/LEARN\)](#)**Excerpts from American Enterprise Institute's Panel Discussion on Article V with Panelist Antonin Scalia**

May 23, 1979

p. 5

MR. DALY: All right. Professor Scalia, Richard Rovere in the New Yorker, suggested that the convention method of amendment might reinstate segregation and even slavery, throw out much or all of the Bill of Rights, eliminate the Fourteenth Amendment's due process clause, reverse any Supreme Court decision the members didn't like, and perhaps for good measure, eliminate the Supreme Court, itself. [Laughter.] Now, what would you anticipate from an unlimited convention?

ANTONIN SCALIA, professor of law, University of Chicago: I suppose it might even pass a bill of attainder to hang Richard Rovere. [Laughter.] All those things are possible, I suppose, just as it is possible that the Congress tomorrow might pass a law abolishing social security as of the next day, or eliminating Christmas. Such things are possible, remotely possible. I have no fear that such extreme proposals would come out of a constitutional convention. Surely, whether that risk is sufficient to cause anyone to be opposed to a constitutional convention depends on how high we think the risk is and how necessary we think the convention is. If we thought the Congress were not necessary for any other purpose, the risk that it might abolish social security would probably be enough to tell its members to go home. So, it really comes down to whether we think a constitutional convention is necessary. I think it is necessary for some purposes, and I am willing to accept what seems to me a minimal risk of intemperate action. [The founders inserted this alternative method of obtaining constitutional amendments because they knew the Congress would be unwilling to give attention to many issues the people are concerned with, particularly those involving restrictions on the federal government's own power. The founders foresaw that and they provided the convention as a remedy. If the only way to get that convention is to take this minimal risk, then it is a reasonable one.]

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pp. 21-22

PROFESSOR SCALIA: I have not proposed an open convention. Nobody in his right mind would propose it in preference to a convention limited to those provisions he wants changed. Regardless of the issue-say, a constitutional amendment on abortion-its supporters would want a convention that considers that issue and nothing else; or one that considers only the particular features of the Constitution that they do not like, but precludes consideration of those features they do like. I think there is nobody, except maybe one or two anarchists, who would sincerely want an open convention for its own sake, to expose the whole system to possible change. There comes a point, however, at which one has to be willing to run the risk of an open convention to get the changes that are wanted. [Essentially what I have said is that there is some risk of an open convention, even with respect to the limited proposal of financial responsibility at the federal level. I think that risk is worth taking. It is not much of a risk. Three-quarters of the states would have to ratify whatever came out of the convention; therefore, I don't worry about it too much.] I would also be willing to run that risk for issues primarily involving the structure of the federal government and a few other so-called single issues. I would favor a convention on abortion, which some consider a single issue. I suppose slavery could have been called a single issue, too. It all depends on how deeply one feels about the issue. In any case, I do not have any great fear of an open convention, since three-quarters of the states do have to ratify what comes out of it. The clucking that Richard Rovere and others do about it is simply an intentional attempt to create panic and to make the whole idea sound unthinkable. It is not unthinkable at all; it is entirely thinkable.

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p. 36

PROFESSOR SCALIA: I listed first among the things that I would like to have considered the structural issues at the federal level. I do not have a lack of trust in the American people. [I am the one here who is least terrified of a convention.] We have come a long way. We have gotten over many problems. But the fact remains that a widespread and deep feeling of powerlessness in the country is apparent with respect to many issues, not just the budget issue. The people do not feel that their wishes are observed. They are heard but they are not heeded, particularly at the federal level. The Congress has come up with a lot of palliatives--the legislative veto, for example-which do not solve the problem at all. Part of the

problem as I have noted is simply that the Congress has become professionalized; its members have a greater interest than ever before in ~~being~~ in office; and it is served by a bureaucracy and is much more subject to the power of individualized pressure groups than to the unorganized feelings of the majority of the citizens. This and other factors have created a real feeling of disenfranchisement that I think has a proper basis. The one remedy specifically provided for in the Constitution is the amendment process that bypasses the Congress. I would like to see that amendment process used just once. I do not much care what it is used for the first time, but using it once will exert an enormous influence on both the Congress and the Supreme Court. It will establish the parameters of what can be done and how, and after that the Congress and the Court will behave much better. ...

PROFESSOR SCALIA: May I rehabilitate myself? Maybe reach down a hand to pull Paul back up on the bandwagon? When I say I do not much care what it is about, I mean that among various respectable issues for a constitutional convention, I am relatively neutral as to which goes first. The process should be used for some significant issue that concerns the American people, but which issue is chosen is relatively unimportant. I would not want a convention for some silly purpose, of course. But I think there are many serious purposes around, many matters that profoundly concern the American people and about which they do not now have a voice. I really want to see the process used responsibly on a serious issue so that the shibboleth-the Richard Rovere alarm about the end of the world--can be put to rest and we can learn how to use the process responsibly in the future.

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AGENDA  
**SENATE STATE AFFAIRS COMMITTEE**  
8:00 A.M.  
Room WW55  
Wednesday, March 09, 2016

SUBJECT	DESCRIPTION	PRESENTER
GUBERNATORIAL APPOINTMENTS:	The Gubernatorial re-appointment of Shelly Jo Enderud to the State Building Authority.  The Gubernatorial re-appointment of Bud Tracy to the State Building Authority.	
<a href="#">H 512</a>	RELATING TO COMMUNITY COLLEGES to provide for community college trustee zones and related provisions.	Senator Bracket and Representative Chaney
<a href="#">S 1360</a>	RELATING TO THE ADMINISTRATIVE PROCEDURE ACT to provide a requirement regarding certain amendments to the administrative rules.	Senator Rice
<a href="#">S 1377</a>	RELATING TO ELECTIONS to require judges to transmit a copy of the results to the county clerk.	Senator Winder

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman McKenzie	Sen Siddoway
Vice Chairman Lodge	Sen Lakey
Sen Davis	Sen Stennett
Sen Hill	Sen Buckner-Webb
Sen Winder	

COMMITTEE SECRETARY

Twyla Melton  
Room: WW42  
Phone: 332-1326  
email: [sstaf@senate.idaho.gov](mailto:sstaf@senate.idaho.gov)



MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Wednesday, March 09, 2016

**TIME:** 8:00 A.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Lodge, Senators Davis, Hill, Winder, Siddoway, Lakey, Stennett and Rohn(Buckner-Webb)

**ABSENT/ EXCUSED:** None

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**CONVENED:** **Chairman McKenzie** called the Senate State Affairs Committee (Committee) to order at 8:03 a.m. with a quorum present.

**GUBERNATORIAL APPOINTMENTS:** The Gubernatorial reappointment of Shelly Jo Enderud to the Idaho State Building Authority (phone interview).

**Chairman McKenzie** explained that the first interview for the Gubernatorial reappointment will be Shelly Jo Enderud to the Idaho State Building Authority (Board) and it will be by phone since Ms. Enderud is in Post Falls. He asked for an update from Ms. Enderud since her prior appointment and if there have been any relevant issues since that time. **Ms. Enderud** explained that the Board has not had many projects in the last five years. She said the last major project was the parking garage. She provided details about how the process worked for a large project and discussed some of the challenges in overseeing the construction of the garage. **Chairman McKenzie** asked if the Idaho State Building Authority had the appropriate mechanisms to overcome those challenges, and if the Legislature should work to address any problems. **Ms. Enderud** replied that the Board works very well as it stands.

The Gubernatorial reappointment of Bud Tracy to the Idaho State Building Authority.

**Chairman McKenzie** welcomed Bud Tracy to the Committee and asked for an update since his last appointment. **Mr. Tracy** said that Ms. Enderud reiterated that the Board has been quiet for the last five years and echoed the challenges with the parking garage. Mr. Tracy elaborated on the problem with the elevators for the garage and that it was, he believed, an unfortunate misrepresentation. Fortunately, they had the tools to deal successfully with the problem and stayed under the budget approved by the Senate. There are no potential projects at the present time.

Chairman McKenzie expressed his appreciation to both Ms. Enderud and Mr. Tracy for their service and time that they have spent on the Board. Voting will be at the next meeting.

**H 512** RELATING TO COMMUNITY COLLEGES to provide for community college trustee zones and related provisions.

**Senator Bert Brackett**, District 23, explained that the legislation would require community college trustees to run for election in designated zones. In current system, all trustees run district-wide, and those elected tend to reside in more urban areas. Senator Brackett cited several examples of disproportionate representation and detailed previous attempts to solve this problem. **Senator Brackett** referred to the maps of the three districts: 1.) College of Western Idaho (CWI) where one trustee lives in Boise, one in Eagle and one in Nampa (see attachment 1a); 2.) North Idaho College (NIC) has four of the five members residing in Coeur d'Alene and one in Post Falls (see attachment 1b); and 3.) College of Southern Idaho (CSI) has four of the five members in Twin Falls and one in Kimberly (see attachment 1c). Jerome County has been without representation since 2010. Information to develop this legislation has come from existing code including school board elections, county commissioner elections and the Commission for Reapportionment. **Senator Brackett** stated that Idaho Code § 33-313 says that the boundaries of several trustee zones in each school district shall be defined and drawn so that, as reasonable as may be, each zone shall be approximately the same population. That wording is found in the bill. All three community colleges have been consulted and gave input for **H 512**. **Senator Brackett** summarized a letter of support from President Fox and the Board at CSI. **Senator Brackett** stated that one major concern is the situation of current trustees and whether they may finish their term and will defer to Representative Chaney, who will detail the solution.

**Senator Brackett** said that a potential benefit of the bill is that it will be easier to get voter approval for a new community college district if voters can be assured that they will be represented on the board of trustees. It will also be easier to add new counties to existing community college districts if the voters in the new counties had some assurance that they will have representation.

**Senator Brackett** went through an explanation of the bill.

**Senator Stennett** asked what would happen if no one from a rural zone ran for a seat on the board and it remained vacant. **Senator Brackett** observed that filling vacancies has not been a problem to date; there is nothing to prevent someone from being appointed.

**Representative Greg Chaney**, District 10, came forward and responded that the smallest trustee district would have 20,000 people and therefore an ample number of potential candidates. The legislation contains provisions for appointing a trustee in the event that someone does not run for the position. This provision requires the appointee reside in the appropriate zone. The legislation states that districts be divided into five zones. **Representative Chaney** outlined three scenarios to resolve how incumbent trustees will serve out their terms.

**Senator Stennett** asked Representative Chaney to point out the appointment language in the bill and inquired about who would make appointments to the board in the event of a vacancy. **Representative Chaney** replied that the sitting board of trustees would make the appointment. **Senator Stennett** followed up to verify that an appointee would only serve the remainder of the term. **Representative Chaney** agreed.

**Senator Davis** asked why the legislation would not apply to new community college districts. Representative Chaney replied that it would. **Senator Davis** cited language in Section 1 of the bill implying its application to existing districts only. **Representative Chaney** described additional language in Section 2 that applied to the formation of new boards in new districts. Conversation about language in the bill ensued.

**TESTIMONY:**

**Mark Dunham**, board member for CWI, testified in support of the bill. He has served two terms, but does not think he is eligible for a third because he lives very close to a fellow trustee and the legislation would prevent both from serving. He stated the bill will maintain fair representation and resolve this long-contested issue.

**Braden Jensen**, representing the Farm Bureau Federation, testified in support of **H 512**. He stated that many farmers and landowners in these districts pay taxes to fund community colleges and they deserve fair representation in return. **Mr. Jensen** spoke of diversifying the experience and perspectives of the board of trustees, and asked for support from the Committee.

**Senator Bracket** thanked the Committee and those who testified.

**Senator Winder** commented that Mark Dunham would likely not be eligible to run again for the board of trustees because he lives in the same district as a fellow trustee. He asked if Mr. Dunham seeks reelection, would his fellow trustee be excluded from the election. **Senator Brackett** replied that the two trustees would run against each other should both seek reelection.

**MOTION:**

**Senator Hill** moved to send **H 512** to the floor with a **do pass** recommendation. **Vice Chairman Lodge** seconded the motion. The motion carried by **voice vote**.

**S 1360**

RELATING TO THE ADMINISTRATIVE PROCEDURE ACT to provide a requirement regarding certain amendments to the administrative rules.

**Senator Jim Rice**, District 10, stated that **S 1360** addressed an ongoing issue with the committee rules review process. He explained that each year rules are presented that make references only to previous versions or changes. There is a lack of any substantive explanation of the changes between rules, or the previous versions that existed before a change. **Senator Rice** cited proceedings in the Senate Agricultural Affairs Committee when questions were asked about previous versions or changes in rules and presenters were unable to answer. He stated that most agencies have the details of these changes and would merely pass them along to the appropriate committee during the rules review process.

**Senator Lakey** asked for clarification of the word "materials" in the language of the bill in subsection (4). **Senator Rice** responded that most rule changes are minor. He noted that members of a committee commonly ask what substantive changes have been made in the past to the rule.

**Senator Lakey** followed up to clarify if "materials" meant that agencies were to provide outside sources or previous amendments to the rules. **Senator Rice** answered that committee members receive manuals and other items incorporated by reference. These are the "materials" described in the bill.

**MOTION:**

**Senator Siddoway** moved to send **S 1360** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

**S 1377**

RELATING TO ELECTIONS to require judges to transmit a copy of the results to the county clerk.

**Senator Winder**, District 20, yielded his opening time to Phil McGrane.

**Phil McGrane**, Chief Deputy to the Ada County Clerk, explained that according to an antiquated statute, poll workers would post election results on the door of the polling location. This bill was crafted in response to the new

election system and the possibility that the posting requirement in statute could delay the transmission of the results of an election to the clerk's office and to their website.

**MOTION:**

**Senator Lakey** moved to send **S 1377** to the floor with a **do pass** recommendation. **Vice Chairman Lodge** seconded the motion. The motion carried by **voice vote**.

**ADJOURNED:**

There being no further business, **Chairman McKenzie** adjourned the meeting at 9:12 a.m.

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Senator McKenzie  
Chair

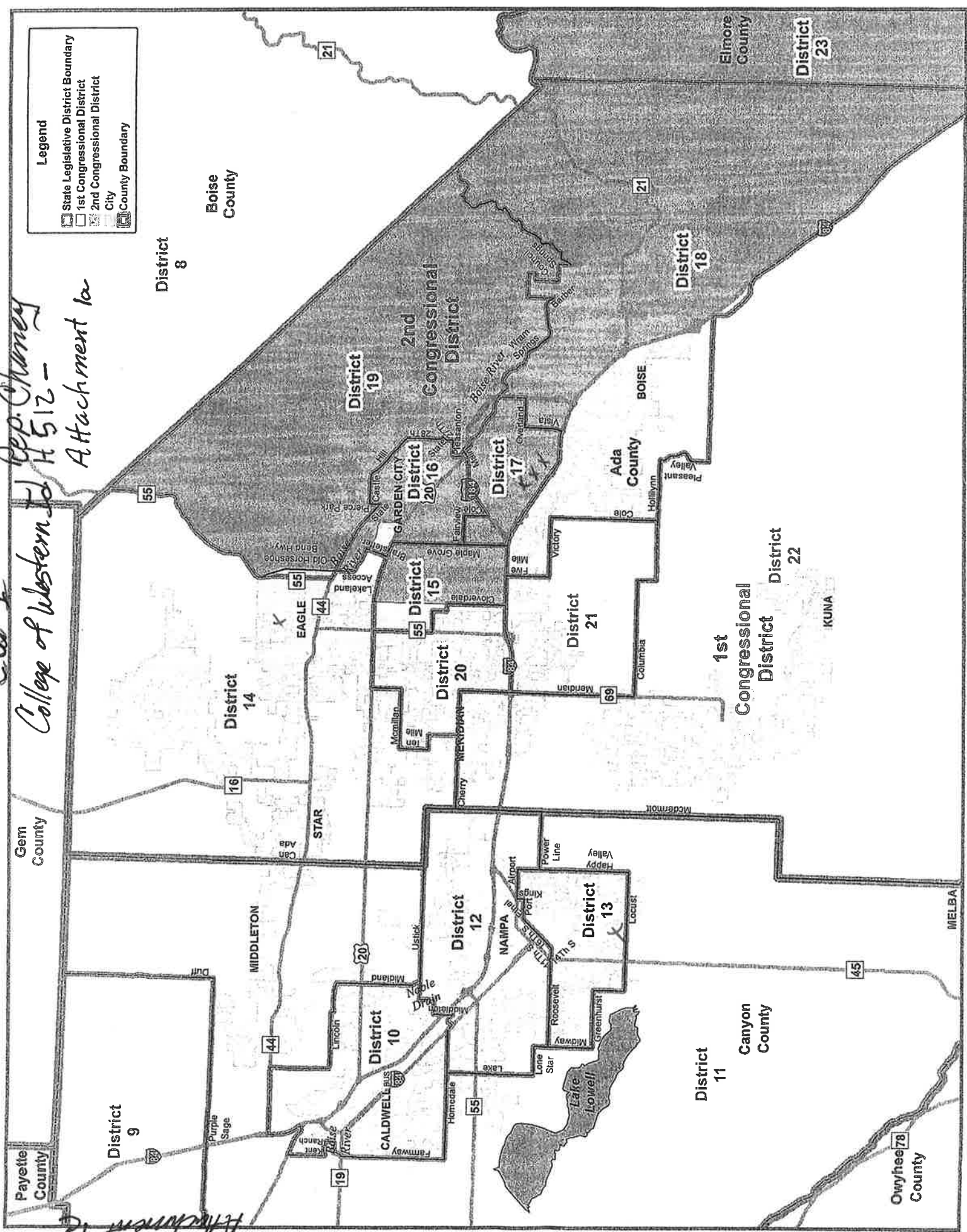
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Twyla Melton. Secretary

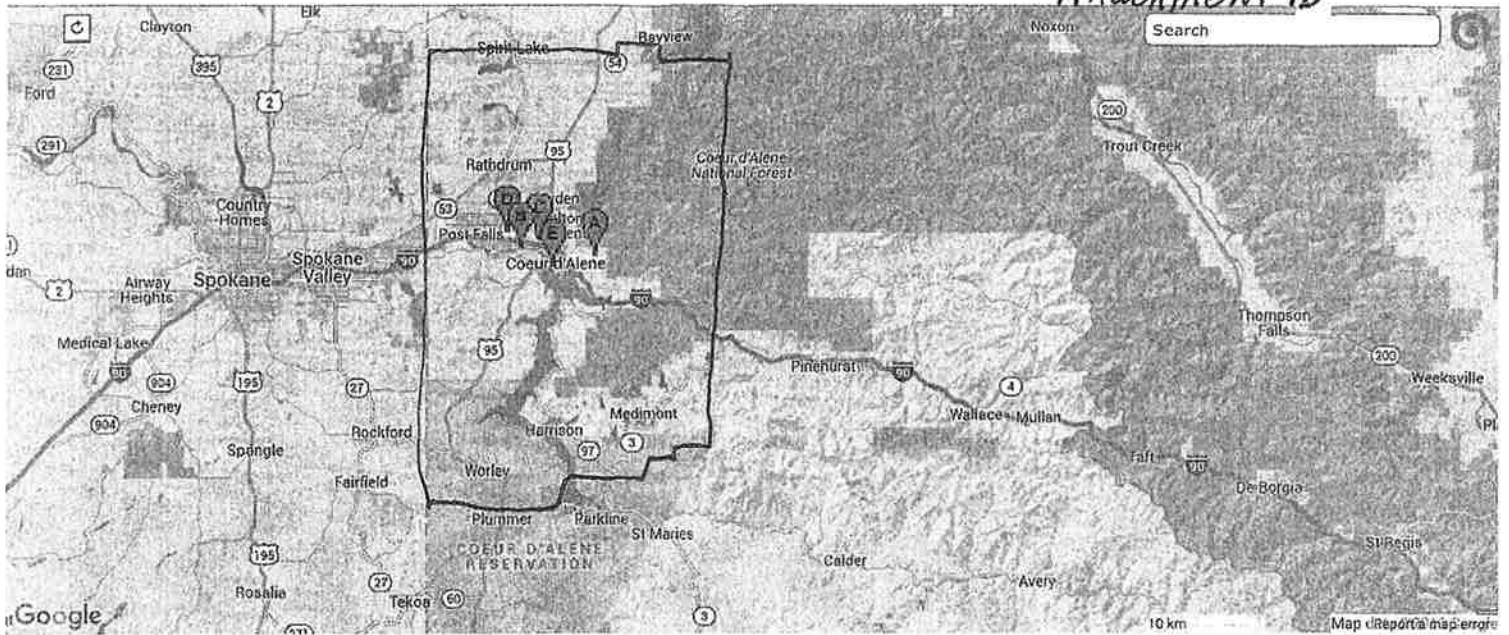
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Assisted by Maureen Lavelle

*C.W. I.*  
*College of Western Id.*  
*Rep. Cheney*  
*H 512 -*  
*Attachment 1a*



NIC Trustees

# 5127  
Attachment 1b

NIC Trustees

No. Id. College

COMING TO LATE NIGHT

**FEB 8**  
MONDAYS 10:30P

HOVER FOR MORE

6902 E SLEEPY LN  
COEUR D ALENE , IDAHO 83814  
LAST: HOWARD  
FIRST: KENNETH

A

4761 W MILL RIVER CT  
COEUR D ALENE, IDAHO 83814  
LAST: NILSON  
FIRST: RONALD

B

4025 W FAIRWAY DR  
COEUR D ALENE , IDAHO 83815  
LAST: WOOD  
FIRST: CHRISTIE

C

1647 N GLASGOW DR  
POST FALLS, IDAHO 83854  
LAST: BANDUCCI  
FIRST: TODD

D

301 N 1ST ST  
COEUR D ALENE , IDAHO 83814  
LAST: MEYER  
FIRST: JUDY

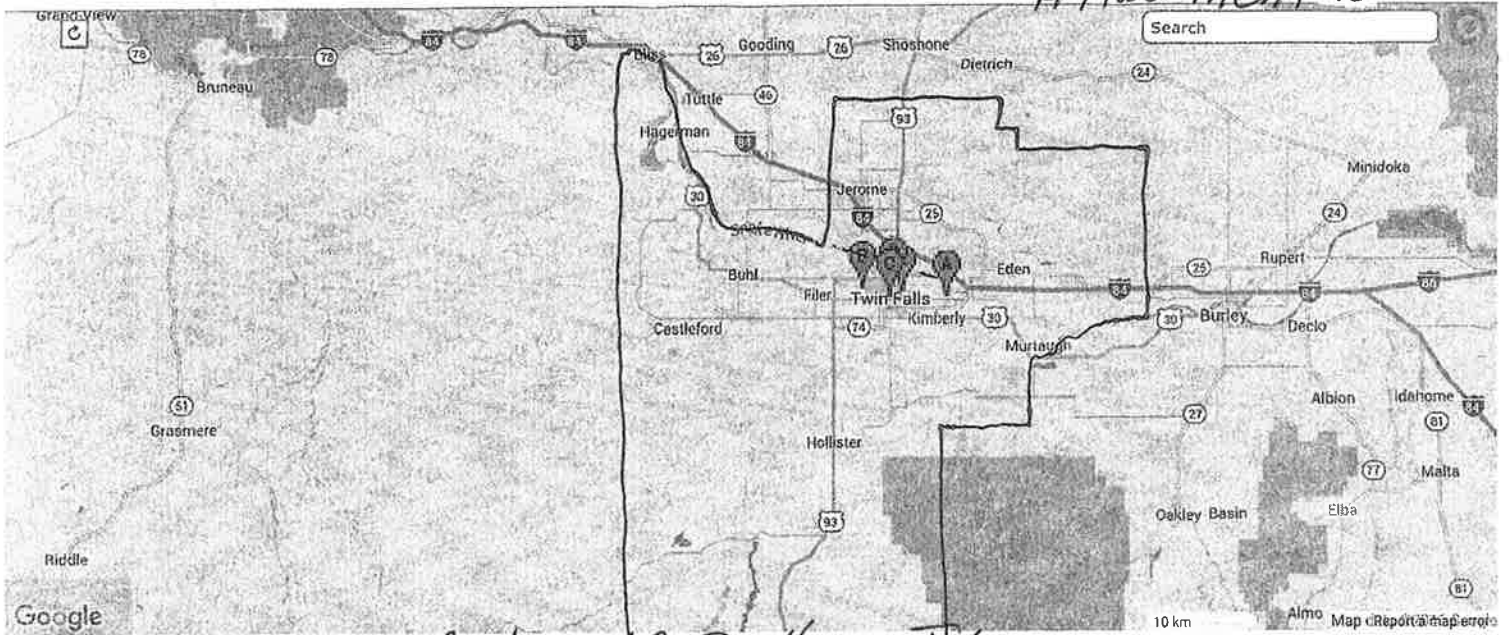
E

[Download NIC Trustees Google Earth \(KML\)](#)



CSI Trustees

Rep Charey

H512  
Attachment 1c

CSI Trustees

College of Southern Id.



3602 E 3920 N  
KIMBERLY, IDAHO 83341  
LAST: KLEINKOPF  
FIRST: KARL

A

893 SUN WAY  
Twin Falls, IDAHO 83301  
LAST: KEEGAN  
FIRST: ROBERT

B

275 LINCOLN ST  
Twin Falls, IDAHO 83301  
LAST: STONE  
FIRST: LAIRD

C

1381 GALENA DR  
Twin Falls, IDAHO 83301  
LAST: MITTLEIDER  
FIRST: JANICE

D

685 WHITE PINE DR  
Twin Falls, IDAHO 83301  
LAST: SCHOLES  
FIRST: HOWARD

E

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**AMENDED AGENDA #2**  
**SENATE STATE AFFAIRS COMMITTEE**  
**8:00 A.M.**  
**Lincoln Auditorium**  
**Friday, March 11, 2016**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
VOTE ON GUBERNATORIAL APPOINTMENTS:	The reappointment of Shelly Jo Enderud and Bud Tracy to the State Building Authority	
<a href="#">RS24713</a>	RELATING TO THE IDAHO UNBORN INFANTS DIGNITY ACT that seeks to protect the dignity of pre-born children to abortion.	David Ripley, Idaho Chooses Life
<a href="#">HCR 41</a>	STATING LEGISLATIVE FINDINGS and celebrating the 125th anniversary of the adoption of the seal of the state of Idaho.	Representative Troy
<a href="#">H 516</a>	RELATING TO ABORTION to provide the use of ultrasound.	Senator Nuxoll
<a href="#">RS24714</a>	SENATE CONCURRENT RESOLUTION to reject certain Department of Administration rules.	Senator McKenzie

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman McKenzie  
Vice Chairman Lodge  
Sen Davis  
Sen Hill  
Sen Winder

Sen Siddoway  
Sen Lakey  
Sen Stennett  
Sen Buckner-Webb

COMMITTEE SECRETARY

Twyla Melton  
Room: WW42  
Phone: 332-1326  
email: sstaf@senate.idaho.gov

MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Friday, March 11, 2016

**TIME:** 8:00 A.M.

**PLACE:** Lincoln Auditorium

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Lodge, Senators Hill, Winder, Siddoway, Lakey, Stennett and Buckner-Webb

**ABSENT/ EXCUSED:** Senator Davis

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**CONVENED:** **Chairman McKenzie** called the Senate State Affairs Committee (Committee) to order at 8:00 a.m. with a quorum present.

**VOTE ON GUBERNATORIAL APPOINTMENTS:** Vote on the reappointment of Shelly Jo Enderud and Bud Tracy to the State Building Authority.

**MOTION:** **Vice Chairman Lodge** moved to send the Gubernatorial reappointments of Shelly Jo Enderud and Bud Tracy to the State Building Authority to the floor with the recommendation that they be confirmed by the Senate. **Senator Hill** seconded the motion. The motion carried by **voice vote**.

**HCR 41** STATING LEGISLATIVE FINDINGS and celebrating the 125th anniversary of the adoption of the seal of the State of Idaho.

**Representative Troy**, District 5, presented this resolution. Idaho was admitted into the United States on July 3, 1890. Emma Edwards Green submitted a design for the State seal that was accepted. On March 14, 1891, the design was adopted by the Legislature as the official State seal. Ms. Green is the only woman to have designed a state seal. This resolution honors her work.

**Senator Buckner-Webb** commented that it was wonderful that this resolution is brought forward during Women's History Month.

**Senator Hill** remarked that it is always a highlight of the tours he gives around the Capitol to mention that the man and the woman on the seal are the same height, indicating the equally important roles they both play in the State. He expressed his appreciation for the resolution.

**MOTION:** **Senator Buckner-Webb** moved to send **HCR 41** to the floor with a **do pass** recommendation. **Vice Chairman Lodge** seconded the motion. The motion carried by **voice vote**.

**RS 24713** RELATING TO THE IDAHO UNBORN INFANTS DIGNITY ACT that seeks to protect the dignity of pre-born children terminated by abortion.

**David Ripley**, Executive Director, Idaho Chooses Life, presented this bill. This is a refined version of previous legislation. The language is more precise. He highlighted the changes in language. He addressed some questions that arose at the last print hearing. A mother may donate the remains of a baby in cases of miscarriage or stillbirth for research and

experimentation, but this consent has to be informed and freely given. Once consent is given, the disposition of those organs and tissue is beyond the mother's control.

**Senator Lakey** commented that he appreciated Mr. Ripley's work with the interested parties to improve the bill.

**Senator Stennett** asked why this bill has been brought so late in the session. **Chairman McKenzie** explained that the Committee had already heard this bill and had expressed concerns about the language. He noted that the sponsors were told that there would be a print hearing if the language could be revised.

**Senator Hill** asked about subsections (2) and (3) in page 4, lines 1-4, of the bill regarding the restrictions about the recipients of the transplantations of any bodily remains. He stated that the language makes it appear that everyone can know who the recipients are except the mother. He asked how could there be no restrictions in one section of the bill, but have a restriction on the mother in a different section of the bill. **Mr. Ripley** answered that this is "boiler plate language" from other statutes. The mother is not able to impose restrictions on who the recipients of the donated tissue are. **Senator Hill** asked for clarification to subsection (2), because it does not seem to protect the anonymity of the recipient. **Mr. Ripley** stated that subsection (3) protects the anonymity of the recipient. **Senator Hill** remarked that subsection (3) only protects the anonymity from the mother and no one else.

**Senator Buckner-Webb** asked for clarification regarding the surrogate. **Mr. Ripley** responded that the mother is a surrogate in the sense that she is making decisions for the baby because the baby cannot make a decision for itself. **Senator Buckner-Webb** stated that the term surrogate does not make sense because the mother of the child is part of the process from the beginning.

**Vice Chairman Lodge** asked if this version has been checked by the AG for constitutionality. **Mr. Ripley** answered that the language changes in this bill are the result of an AG's opinion. The memo received from the AG's office was a substantial document that addressed potential questions. The legislation was reviewed line by line in order to adhere to the AG's opinion. **Vice Chairman Lodge** indicated that she preferred that this version of the legislation be checked out by the AG's office to preempt any potential lawsuits based on constitutionality. She stated that she was in favor of the legislation if it is constitutionally correct.

**Senator Buckner-Webb** remarked that after the last version of the legislation was presented, she went to the Bureau of Vital Statistics for information on burial records in which stillbirth was defined as one where the fetus was 20 weeks along or 350 grams in weight. She asked if any language in the bill distinguished stillbirth from other types of death for infants. **Mr. Ripley** answered that the new language in the bill comes directly from the Idaho Department of Health and Welfare. This creates a new certificate. Current code calls for a certificate of stillbirth and sets forth specific requirements for gestational age. This bill creates a certificate of miscarriage. Miscarriage would be defined as death of a fetus after the first trimester through the 20-week period of time. **Senator Buckner-Webb** asked if stillbirth was referenced in the bill, but not specifically stated. She asked if she would have to go to another section of Idaho Code to access the stillbirth portion of the law. **Mr. Ripley** responded that Idaho Code § 39-9305 addresses her concern.

## MOTION

**Senator Lakey** moved to send **RS 24713** to print. **Senator Winder** seconded the motion with the caveat that the issue regarding the Attorney General's letter would be addressed before the bill was heard. **Chairman McKenzie** said a follow-up would be made. The motion carried by **voice vote**. **Senators Stennett** and **Buckner-Webb** were recorded as voting nay.

## H 516

RELATING TO ABORTION to provide the use of ultrasound.

**Senator Nuxoll**, District 7, spoke about the United States Supreme Court decision in *Gonzales v. Carhart* and read statements from the justices. In part, the statement indicated that because of the grave nature of abortion, the "State has an interest in ensuring so grave a choice is well informed." This bill seeks to provide women with additional information before an abortion in order to prevent the additional grief and sorrow mentioned in the previous statement. In order to make the most informed decision regarding abortion, a woman should have access to all relevant facts about the unborn child and its condition. This legislation requires that 24 hours prior to an abortion being performed, a woman is to be informed that free ultrasound imaging and heart tone monitoring are available. This bill requires the Idaho Department of Health and Welfare (IDHW) to provide a list of free ultrasound-providing clinics. The fee for an abortion will be withheld until this information is given.

**Senator Nuxoll** pointed out that 24 states already have similar laws. She noted that a 2008 Focus on the Family study found that women are more likely to keep their baby if they have an ultrasound.

**Senator Stennett** asked if the IDHW was consulted about this bill. **Senator Nuxoll** answered that she was not aware whether or not IDHW was consulted. **Senator Stennett** noted that the bill fails to identify any medical qualifications for the facilities and personnel that will be providing the free ultrasound. She asked how the IDHW will ensure safe medical practices at these facilities if it is not in the bill. She asked if there has to be a physician in residence at these facilities. **Senator Nuxoll** replied that there are three national pregnancy groups that manage the pregnancy centers. Licensed physicians and licensed medical personnel are required at these facilities. Idaho does not specifically require licensing.

**Senator Stennett** noted that the requirement to have a physician in residence and having a physician at the actual procedure are two different things. She asked if there will be licensed medical staff or a licensed physician on hand to perform the ultrasound. **Senator Nuxoll** replied that the staff present to do the ultrasounds are trained. **Senator Stennett** asked if the licensed physicians are actually doing the procedure. **Senator Nuxoll** answered that the licensed physicians are doing the procedures.

**Senator Buckner-Webb** asked what type of ultrasounds are performed at these clinics. **Senator Nuxoll** asked for clarification. **Senator Buckner-Webb** noted that there are different techniques for ultrasounds and she asked what kind of ultrasound is mandated by this legislation. **Senator Nuxoll** responded that this bill does not mandate any type of ultrasound. The ultrasound that would be administered would be the one that is appropriate based on the baby's development. She stated that she understood that from six weeks gestation and older, an abdominal ultrasound can be used. If it is less time than six weeks, a transvaginal ultrasound would be used.

## TESTIMONY:

**Kerry Uhlenkott**, Legislative Coordinator, Right to Life of Idaho, spoke in favor of this bill. She stated that if a woman is to have any real choice in regards to abortion, then she needs to have all the facts about the unborn child, as well as the medical facts about her own condition. She noted that there are seven pregnancy centers across the State of Idaho. She remarked

that a large majority of mothers who see their unborn child in an ultrasound ultimately choose life for the child. She reiterated that the pregnancy care centers in Idaho are affiliated with at least one of the national pregnancy centers. Each center must function under the care of a licensed physician and trained personnel. She explained that of the 24 states that have ultrasound laws, 11 of them require a woman to be given information about free ultrasounds.

**Senator Stennett** cited a 2014 *Obstetrics and Gynecology Journal* article that showed that 98.4 percent of women who viewed an ultrasound still chose termination of the unborn child. She asked who in the facilities is interpreting the ultrasound exam. **Ms. Uhlenkott** answered that the ultrasound has to be read by a licensed physician. **Senator Stennett** asked what qualifications or training is required for a sonographer. **Ms. Uhlenkott** replied that there were sonographers in the audience who will be testifying and that they will be able to answer that question.

**Senator Buckner-Webb** indicated her concern about the professional dialogue that occurs after an ultrasound is performed and if a woman might be pressured one way or another; is there a standard of care regarding this dialogue? **Ms. Ulenkott** responded that every woman is given printed material outlining every option after the ultrasound is performed. **Senator Buckner-Webb** indicated that she would like to see that material.

**Senator Lakey** asked if there were other care centers that may not utilize trained personnel. **Ms. Ulenkott** replied that there are other pregnancy care centers but they refer to the centers that have ultrasound services.

**Jacqueline Emathingier** spoke in opposition to the bill. She gave her story about an unwanted pregnancy. She indicated that she went to Planned Parenthood and that the clinician helped her. She remarked that three items were suggested as amendments to the bill when it was in committee in the House. Those suggestions were rejected. She stated that the government should trust a woman's ability to protect herself. **Senator Stennett** thanked Ms. Emathingier for sharing her story.

**Melissa Hemphill**, from the "Silent No More Awareness Campaign," testified in support of the bill. She reported on the statistics for this group in regards to their advocacy efforts. This bill allows a woman to make an informed decision. **Ms. Hemphill** related her story about her abortion at Planned Parenthood. She stated that knowledge is power. **Senator Stennett** and **Chairman McKenzie** thanked Ms. Hemphill for sharing her story.

**Hanna Brass-Greer**, Legislative Director, Planned Parenthood in Idaho, testified in opposition to the bill. She remarked that all women deserve access to accurate information, but this bill does not provide that. This bill will place an additional barrier to a woman in her efforts to obtain an abortion. Rather, this bill seeks to push women to clinics that would dissuade them from having an abortion. Nothing in this bill requires accurate information. **Ms. Brass-Greer** explained that this bill does not require the providers of the free ultrasound to have any licensed or trained personnel. Referring women to these types of facilities will delay their access to adequate medical care.

**Senator Stennett** asked which type of ultrasound is typically used. **Ms. Brass-Greer** responded that she is an attorney and not a physician. She indicated that her understanding is that the type of ultrasound depends on the individual woman and her pregnancy. **Senator Stennett** asked if the IDHW has been part of the conversation with this legislation. **Chairman McKenzie** asked if the IDHW would defer to the question.



**Dieuwke Dizney-Spencer**, Deputy Administrator, Division of Public Health at IDHW, explained that the IDHW was not involved in the writing of this legislation. The function of the IDHW in this legislation is not exactly clear.

**Senator Stennett** noted her concern that the IDHW is not clear on their role related to this legislation. She asked Deputy Administrator Dizney-Spencer if he understood what the IDHW would be responsible for.

**Ms. Dizney-Spencer** replied that it appears that the IDHW is required to compile a list of clinics that provide free ultrasounds. She noted that this legislation ties into Idaho Code § 39-77 regarding clinics. The IDHW would need to develop a means of verifying the medical certification of these clinics.

**Senator Stennett** remarked that the bill does not specify certification of facility or personnel. She asked how IDHW would be able to ensure that safe medical practices are occurring in these facilities.

**Ms. Dizney-Spencer** answered that the IDHW would need to come up with a means to verify and certify these clinics annually in order to add the care centers to the list of free clinics. **Senator Stennett** asked if this would require the IDHW to add personnel and resources to check the care center facilities. **Ms. Dizney-Spencer** responded that she was not sure if the IDHW would have to physically inspect the clinics or if there would be another means to certify the personnel.

**Vice Chairman Lodge** asked what the cost would be to print the booklets mentioned in the fiscal note. **Ms. Dizney-Spencer** answered that the requirement in the bill would probably not be printed in the books. Instead, the IDHW may send out an annual addendum and also provide that information on the IDHW's website.

**Senator Buckner-Webb** asked if the IDHW would receive a list of the clinics performing the free ultrasounds. **Ms. Dizney-Spencer** replied that the IDHW does not currently get a list of clinics providing free ultrasounds, but the IDHW does have a list of free primary care clinics within the State; one or two of the clinics currently on the list provides free ultrasounds. **Senator Buckner-Webb** asked if the IDHW would need specific information from the clinics in regards to the protocol they would follow in speaking with a woman after an ultrasound is performed. **Ms. Dizney-Spencer** answered that the IDHW would need specific information from the clinics on the medical procedures performed, the certifications of those performing the ultrasounds and also the specific medical oversights in the clinics. **Senator Buckner-Webb** asked if the IDHW would have to know whether or not it was an actual physician reading ultrasound results. **Ms. Dizney-Spencer** replied that the IDHW would try to be thorough and as accurate when listing the free clinics.

**Senator Lakey** asked Ms. Brass-Greer if she was familiar with the seven care centers in Idaho that provide free ultrasounds. **Ms. Brass-Greer** answered that she does not have that list. **Senator Lakey** asked if she was personally aware of the clinics which provide free ultrasounds. **Ms. Brass-Greer** replied that she was not aware of those clinics. **Senator Lakey** asked if she was aware of any care centers in Idaho that provide free ultrasounds but do not utilize trained personnel. **Ms. Brass-Greer** responded that she was only aware of the qualifications of her health center.

**Dory Sandstrom**, Executive Director, Stanton Healthcare in Magic Valley, testified in favor of the bill. She spoke about the standard of care for her facility and the services they provide. Dr. Mark Aston is the medical director of the clinic. Dr. Robert Anderson, a radiologist, reviews each ultrasound scan. All of the sonographers are registered nurses that have received

additional sonography training. She indicated that the clinic performed over 180 pregnancy tests in 2015; all but 20 of those tests came back positive. The clinic provides free ultrasound confirmation exams to any client, regardless of income or pregnancy intentions. She noted that the clinic provides different support groups and education classes to women regardless of any decision made concerning the pregnancy.

**Senator Stennett** asked what the limits are on the ultrasounds offered by Stanton Healthcare. **Ms. Sandstrom** answered that an ultrasound serves three purposes: 1.) it addresses whether there is a fetus in the uterus; 2.) it confirms there is a heartbeat; and, 3.) it verifies how far along the pregnancy is. The radiologist confirms the results of the ultrasound. **Senator Stennett** asked what test displays the heartbeat. **Ms. Sandstrom** replied that this happens when the ultrasound is flipped into the "E mode." She was not sure of the more technical aspects, but she noted that her clinic provides both transvaginal and abdominal ultrasounds. **Senator Stennett** asked if the nurses and Ms. Sandstrom's facility are trained for sonography and, if so, is that training equivalent to a national standard. **Ms. Sandstrom** replied that in the State of Idaho there is no certification for sonography; a person is determined to be competent by the medical director. **Senator Stennett** asked if the medical director is held to different standards than the nurse. She asked if the medical director would be qualified under the national standards. **Ms. Sandstrom** answered that she would assume he is.

**Senator Hill** asked how Stanton Healthcare is funded. **Ms. Sandstrom** replied that all services are free to the clients. The clinic does not receive any government funds, State funds, or insurance funds. It is completely funded through contributions or private grants.

**Senator Buckner-Webb** asked if Director Sandstrom would be opposed to an amendment of this bill that required clinics to provide "medically accurate information and to let patients know that a physician is available to interpret an ultrasound." **Ms. Sandstrom** responded that it might not be necessary to add this language, because Stanton Healthcare and other clinics already operate under this standard. **Senator Buckner-Webb** asked for clarification about Ms. Sandstrom's potential opposition. **Ms. Sandstrom** indicated that she would not be opposed.

**Lauren Gusinow** testified in opposition to the bill. She noted that she is a diagnostic medical sonographer. While this bill appears to simply provide a list of clinics that will offer ultrasounds at no cost, there are medical implications for the requirement to hear a fetus' heartbeat. The American Institute of Ultrasound in Medicine (AIUM) guidelines state "fetal ultrasounds should be performed only when there is a valid medical reason and the lowest possible ultrasonic exposure settings should be used to gain necessary diagnostic information under the As Low As Reasonably Achievable (ALARA) principle." The AIUM further suggests that the fetal heart rate should be detected by "M mode" imaging. She noted that the key distinction is that a heartbeat can be viewed but not heard. She noted that listening to the heartbeat requires a method called "spectral doppler." This is not standard practice in the first trimester due to safety concerns. **Ms. Gusinow** indicated that 90 percent of abortions occur within the first trimester. Listening to the heartbeat of a fetus could be dangerous.

**Senator Stennett** asked for clarification regarding the danger of trying to hear the heartbeat of a fetus. **Ms. Gusinow** replied that there are two methods for evaluating the heart. First, a two-dimensional image allows the patient to see the flicker of the heart valves moving. Second, spectral

doppler allows the patient to hear the heartbeat, but could potentially damage the tissues of the fetus. **Senator Stennett** ask if Ms. Gusinow interprets this bill as saying that there is nothing to prevent someone from using the level of a spectral doppler for an ultrasound, which would result in damage to fetal tissue. **Ms. Gusinow** answered that there are no prohibitions in the bill.

**Senator Hill** asked if there are currently prohibitions to protect the fetus that would prohibit the use of the spectral doppler in the early stages of pregnancy. **Ms. Gusinow** replied that there are no prohibitions. The AIUM guidelines were developed by a wide spectrum of physicians and medical associations. There are no sanctions if this tool is used. The rationale for the guidelines is to discourage the use in the first trimester based on the potential damage it may cause.

**Nicki Kroese**, Public Relations Director, Stanton Healthcare in Magic Valley, spoke in favor of the bill. She indicated that it seems reasonable that medical providers are required to provide a booklet to a woman seeking an abortion in order to give her more information about the procedure. She noted that the optional and free nature of the ultrasound means that no additional burden is placed on the woman. **Senator Stennett** asked about the qualifications required to be a sonographer and who at Stanton Healthcare interprets the ultrasound exam. **Ms. Kroese** responded that Dr. Aston is the final reviewer of ultrasounds performed at Stanton Healthcare. She does not know the requirements for being a sonographer other than what has already been stated.

**Senator Hill** asked if the required booklet concerning abortions that is already distributed mentions anything regarding the risk to a fetus using the spectral doppler. **Ms. Kroese** answered that it does not mention any harm to the fetus from an ultrasound, but it is very graphic in regards to the procedure of abortion. **Senator Hill** ask if the booklet mentioned any risks related to the abortion. **Ms. Kroese** replied that the booklet strictly pertains to abortion and not to any procedures that would lead up to the abortion.

**Kathy Griesmyer**, Public Policy Strategist, American Civil Liberties Union (ACLU) of Idaho, spoke in opposition to the bill. She remarked that it should be the same for physicians speaking to a woman regarding an abortion as it is when they tell her about the potential risks and complications of childbirth. This bill is an attempt to shame women for a decision they have already made. She stated that there is nothing in the bill that gives women the assurance that they will receive medically accurate information.

**Vice Chairman Lodge** asked Ms. Griesmyer if she knows anything about the spectral doppler and its ability to potentially cause damage to fetal tissue. **Ms. Griesmyer** answered that she was not aware of that.

**Senator Lakey** asked if Ms. Griesmyer is familiar with any of the seven clinics that provide free ultrasounds. **Ms. Griesmyer** replied that she is not familiar with them.

**Candy Cardillo**, represented herself as an employee at Rachel's Vineyard and spoke in favor of the bill. She explained that her organization helps men and women who have been devastated by abortion. She commented that the people who come to her organization for help are grief stricken, depressed, angry, bitter, and present other physical and emotional problems after an abortion. She stated that these individuals state most often "if only someone had told me."

**Annica Graf** testified in opposition to the bill. She related her story about being 17 years old and pregnant. She went to a free clinic for help and was

encouraged not to get an abortion. She stated that she left more confused than when she went into the clinic. She stated that having an abortion was a life-changing event, but so is becoming a mother.

**Angie Dwyer**, Clinic Manager, Stanton Healthcare in Boise, spoke in support of the bill. She highlighted the services provided by the Boise clinic and provided some statistics about those services. She reiterated some of the talking points already mentioned in previous testimony. **Senator Buckner-Webb** asked about the process that occurs after the ultrasound. **Ms. Dwyer** explained that the staff at her clinic talk to the patients about a wide range of issues including adoption and abortion options. **Senator Buckner-Webb** said she understands that the procedure is free of charge, but what about the cost to the fetus. **Ms. Dwyer** responded that the ultrasound is done in M mode or motion mode. Doing an ultrasound in spectral doppler mode is very rare. This is not done in her clinic. You see the heart beating, you do not hear the heart beating.

**Senator Stennett** remarked that the bill states nothing about the requirements or the thresholds for an ultrasound.

**Teresa Hammer** spoke in opposition to the bill. She noted that some of the language is detrimental to the mother and the unborn child. She stated that she believes if the bill passes as is, the State would be open to litigation.

**Nancy Teune**, a diagnostic medical sonographer at Stanton Healthcare, spoke in favor of this bill. She talked about the fact that any certification for an ultrasound technician or a registered nurse with a sonographer certification means that it is a given fact that these ultrasounds for the first trimester are being done in M mode. She told the story of one of her patients. **Senator Stennett** remarked that this bill says something different than what **Ms. Teune** indicated was standard practice. She asked what the process is for a woman who enters her clinic; process is not clear in this bill. **Ms. Teune** spoke about the process for a limited ultrasound. **Senator Stennett** reiterated her concern for fetal tissue damage due to spectral doppler usage when the bill does not specifically prohibit the use of spectral doppler.

**Senator Buckner-Webb** asked if the guidelines for best practices and the bill are consistent with one another. **Ms. Teune** noted that the guidelines and the certification for sonographers are clear. **Senator Buckner-Webb** asked **Ms. Teune** about some specific amendment language. **Ms. Teune** replied that it is up to the Committee to decide how much of the language is appropriate for the bill.

**Brenda Saltzer**, Chief Executive Officer, Palouse Medical Clinic, spoke in support of the bill. She noted that only three states, Oregon, New Mexico and North Dakota, require licensing for sonographers. She said that pregnancy centers in Idaho affiliate with one of three national organizations that have very stringent requirements for medical care, ultrasound care and sonography.

**Julie Lynde**, Executive Director, Cornerstone Family Council, testified in support of this bill. She explained the process for a woman who comes into a pregnancy care center and that these centers are completely funded by private donations. She reviewed the statistics for a program that the Cornerstone Family Council has been a part of: the Operation Ultrasound Program founded in 2004 by Focus on the Family. She reviewed how clinics receive ultrasound machines and grants or training from this program. Focus on the Family is dedicated to health, help and hope. **Ms. Lynde** indicated that this bill is about what is best for the pregnant mother.

**Senator Buckner-Webb** asked if Director Lynde indicated that Planned Parenthood provides free health care. **Ms. Lynde** replied that she did not say that.

**Senator Buckner-Webb** asked if Planned Parenthood provides free health care. **Ms. Brass-Greer** indicated that Planned Parenthood does not turn anyone away. She indicated that Planned Parenthood is a nonprofit organization by definition.

**David Ripley**, Executive Director, Idaho Chooses Life, spoke in support of the bill.

**Senator Nuxoll** closed the testimony. She reiterated that this bill does not require an ultrasound, but requires a woman be given information regarding the availability of free ultrasounds. This bill entrusts women to make their own choice after receiving all the information.

**MOTION:**

**Senator Hill** moved to send **H 516** to the floor with a **do pass** recommendation. **Senator Lakey** seconded the motion.

**Chairman McKenzie** asked if there was any further discussion.

**SUBSTITUTE  
MOTION:**

**Senator Buckner-Webb** made a substitute motion to send **H 516** to the 14th Order for possible amendment to add language about medically accurate information and licensed provider availability to interpret the ultrasound, and to remove the five references to hearing the heartbeat. **Senator Stennett** seconded the motion.

**Chairman McKenzie** asked for discussion on the substitute motion.

**Senator Stennett** understood the intended direction of this discussion and that information is good. She also understood that the testimony of those in support of the bill thought that the personnel qualifications were intact. But that is not what this bill says. The Legislature has to put things in statute using words that matter; that is important because the language is the guide. The substitute motion is important because if the bill says "hear a heart monitor" and that monitor can do fetal damage, that is a problem. If the bill doesn't require medical staff or qualified personnel in the building, that's a problem. It is also a problem to place the IDHW in a position where they have no guidance. The substitute motion is appropriate.

**VOTE ON  
SUBSTITUTE  
MOTION:**

**Chairman McKenzie** requested a roll call vote on the substitute motion: **Senators Stennett** and **Buckner-Webb** voted aye. **Senators McKenzie, Lodge, Hill, Siddoway** and **Lakey** voted nay. The substitute motion failed.

**Vice Chairman Lodge** requested that the sponsors revise the fiscal note to reflect the costs to the IDHW.

**Senator Lakey** agreed that the language could use some "tightening" but would prefer to approach that next year. There were some broad generalizations made about the clinics by those in opposition to this legislation. However, there was a lack of familiarity with the seven clinics in Idaho that provide these services. There were no examples of unqualified clinics or individuals operating in Idaho or the potential for that to happen. What the Committee heard from the IDHW was that they have a list and are familiar with compiling lists of clinics that offer free care; this is a more focused list of those clinics that offer free ultrasounds. They could establish a process and some criteria to assemble the ultrasound list. There is no mandate or referral requirement in this bill; it is simply about information.

**VOTE ON ORIGINAL MOTION:**

The original motion carried by a **roll call vote**: **Senators McKenzie, Lodge, Hill, Siddoway** and **Lahey** voted aye. **Senators Stennett** and **Buckner-Webb** voted nay.

**RS 24714**

SENATE CONCURRENT RESOLUTION to reject certain Department of Administration rules.

**Chairman McKenzie** addressed **RS 24714**, a concurrent resolution resulting from the Committee's action to reject certain parts of the rules for the parking garage.

**MOTION:**

**Senator Siddoway** moved to send **RS 24714** to print. **Senator Buckner-Webb** seconded the motion. The motion carried by **voice vote**.

**ADJOURNED:**

There being no further business, **Chairman McKenzie** adjourned the meeting at 10:13 a.m.

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Senator McKenzie  
Chair

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Twyla Melton, Secretary

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Assisted by Michael Jeppson



AGENDA  
**SENATE STATE AFFAIRS COMMITTEE**  
8:00 A.M.  
Lincoln Auditorium  
Monday, March 14, 2016

SUBJECT	DESCRIPTION	PRESENTER
<a href="#">H 478</a>	RELATING TO PUBLIC RECORDS ACT to add an exemption for acquisition/transfer of firearms notification in certain instances.	Representative Troy
<a href="#">S 1389</a>	RELATING TO CONCEALED WEAPONS to revise provisions regarding concealed weapons.	Senator McKenzie

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman McKenzie  
Vice Chairman Lodge  
  
Sen Davis  
Sen Hill  
Sen Winder

Sen Siddoway  
Sen Lakey  
  
Sen Stennett  
Sen Buckner-Webb

COMMITTEE SECRETARY

Twyla Melton  
Room: WW42  
Phone: 332-1326  
email: [ssfaf@senate.idaho.gov](mailto:ssfaf@senate.idaho.gov)

MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Monday, March 14, 2016  
**TIME:** 8:00 A.M.  
**PLACE:** Lincoln Auditorium  
**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Lodge, Senators Davis, Hill, Winder, Siddoway, Lakey, Stennett and Buckner-Webb  
**ABSENT/EXCUSED:** None  
**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.  
**CONVENED:** **Chairman McKenzie** called the Senate State Affairs Committee (Committee) to order at 8:00 a.m. with a quorum present.

**H 478** RELATING TO PUBLIC RECORDS ACT to add an exemption for acquisition/transfer of firearms notification in certain instances.

**Representative Troy**, District 5, explained that this is a simple bill about disclosure and has three main components: 1.) It doesn't change what law enforcement knows, it changes what law enforcement can disclose. 2.) It protects sensitive personal and tax information from being disclosed in public records requests without impeding local, State or federal access to that information. 3.) It doesn't change what applicants purchasing firearms submit to the Bureau of Alcohol, Tobacco, Firearms and Explosives, which includes very specific information about the firearm. It does prevent disclosure of this information to potential thieves. It adds an exemption to the items already excluded from the public records requests, including both concealed weapons permits. It doesn't pose a risk to communities, state or local law enforcement, and it doesn't have anything to do with purchasing a gun. This bill protects confidential information without imposing a duty on State or local law enforcement to do anything but to keep this information private. This legislation ensures that sensitive information submitted in connection with the National Firearms Act (NFA) applications is available only to law enforcement and not to the general public. She indicated that the National Rifle Association (NRA) supports this bill.

**Dakota Moore**, NRA, spoke in favor of this bill. This is a new issue for states across the country. In January 2016, a litany of new rules was promulgated by President Obama changing the way the NFA process was carried out. NFA firearms are firearms and other devices that are regulated under a 1934 law that applies to automatic weapons, suppressors, short-barreled rifles and short-barreled shotguns. There has been a boon in the lawful possession of these firearms. Previous to the newly promulgated rule, there were two mechanisms in which an individual could avail themselves of the ability to possess an NFA firearm or device. One was through an individual transfer, which required a sign-off by the local Chief Law Enforcement Officer. The other way was an NFA trust, which did not require that sign-off. As a result, not all NFA firearms were presented to a local law enforcement agency;

therefore, there were no local records. Under these new provisions, NFA transfers will require a notification to the Chief Law Enforcement Officer by the individual who is purchasing the firearm. When that notification, which contains sensitive information, goes on file it would be available for records requests. This legislation is consistent with State and federal law, which exempts the disclosure forms from requests to provide an exemption that would protect the release of that information and requires a notification of an NFA transfer to the Chief Law Enforcement Officer. This bill is consistent with federal and State law to protect concealed carry licenses.

**Chairman McKenzie** noted for the record that it is unusual to refer to a federal statute in Idaho Code and in this case, federal code is explicitly being incorporated. In order to have the desired effect, it would probably be necessary to refer to the federal statute. He asked for clarification as to why the Committee has to do this. **Mr. Moore** answered that the reason for the reference is that they wanted to make sure it only exempts lawfully possessed NFA items under federal code. He spoke to the process for owning an NFA item: the length of time, the cost and how onerous the process is.

**Senator Davis** noted that sometimes there is no choice but to reference federal law. Title 42 of the United States Code is referenced in the bill as well.

**MOTION:**

**Senator Davis** moved to send **H 478** to the floor with a **do pass** recommendation. **Vice Chairman Lodge** seconded the motion. The motion carried by **voice vote**

**PASSED THE GAVEL:**

Chairman McKenzie passed the gavel to Vice Chairman Lodge.

**S 1389**

RELATING TO CONCEALED WEAPONS to revise provisions regarding concealed weapons.

**Chairman McKenzie** thanked the Committee for their patience. This bill replaces a previous bill that was printed; it was found to have some unintended consequences. This bill has much broader support. He indicated that the significant change starts on page 2 and deals with permitless carry inside city limits. Under current law, individuals are able to carry concealed firearms outside city limits; they cannot within city limits. In Idaho there are cities that are as small as five or six people up to major metropolitan areas. This bill allows for permitless concealed carry to apply to those who are over the age of 21, are a resident of the State and are not disqualified from obtaining a concealed carry license under subsection 11. The current language for permitless concealed carry outside city limits stays in the bill, but it is qualified by the requirement that the person is over the age of 18 who is not disqualified from obtaining a concealed carry license under subsection 11.

**Chairman McKenzie** explained the restrictions listed in subsection 11. He pointed out that this bill amends the language regarding withheld judgments and suspended sentences. The current language states that if three years elapse and a defendant gets a suspended sentence or withheld judgment, and successfully completes probation, then after that period the defendant would be eligible to apply for a license. Generally, it is likely to have probation last for a longer period of time and so three years didn't make sense. **S 1389** says, if a sentence is suspended or there is a withheld judgement and the individual successfully completes probation, that person would be able to apply for a license; that is limited by the long list in Section 18-310.

Subsection (i), page 5, lines 6-10 applying to misdemeanors were added. This bill also states that if an individual receives a period of probation for a crime of violence under the federal definition, that individual will not receive their firearm rights back until after probation is successful completed.

The bill also states on page 7 that individuals between 18 and 21 years of age are required to go through training comparable to the enhanced carry training. After the individual turns 21, if they have met the training requirement, they are automatically qualified for an enhanced concealed carry license.

**Chairman McKenzie** highlighted the prohibited conduct section of the bill. He remarked that the exceptions for these locations are for police officers acting within the scope of their employment, security personnel while engaged in their employment and persons who are authorized by the authorities of a building to carry within their facility.

**Senator Stennett** asked for clarification regarding background checks and safety training requirements. **Chairman McKenzie** answered that there are none of these requirements in the bill, consistent with current statute for carry outside of city limits. **Senator Stennett** asked about the different age requirements in the bill. **Chairman McKenzie** responded that current law states that anyone from 18 to 21 years of age can carry a firearm outside the city limits. If the individuals want to conceal carry within the city limits, then they are required to obtain a license and the training equal to the same standard as the enhanced carry training, that accompanies it. **Senator Stennett** asked if those that fall into this age group need to be residents of Idaho. **Chairman McKenzie** answered that in order to obtain the license, the individual would have to be a resident of Idaho.

**Senator Hill** asked if the court ruling determines that a crime is intentional; if not, who determines this. **Chairman McKenzie** replied that the complaint would usually state whether or not it was intentional. He gave some examples. The intent was to limit the term "violent crimes" to those crimes that are commonly thought of as violent, such as battery, assault and similar crimes. **Senator Hill** noted that attorneys usually talk about the difficulty of proving intent. He asked if Chairman McKenzie thought that this bill made intent clear in all situations. **Chairman McKenzie** answered that this bill makes it clearer than what is in current statute. Federal statute was looked at when it came to violent crime being intentional and not accidental.

**Senator Lakey** noted that according to the bill, it is the misdemeanor offense that has the element of intentional use. He asked if the misdemeanor offense definition already has a requirement for intent. **Chairman McKenzie** responded that this is true and even with the citations for these misdemeanors, the jury instructions will have the intention element specified.

**Senator Stennett** asked why violent crime is more precise than just intentional crime. **Senator McKenzie** gave an example where negligent homicide was a violent action, but not intentional. This bill limits it to a person intentionally causing harm to another. He remarked that including a litany of specific offenses in the bill would make it lengthy and wordy. **Senator Stennett** asked if it is almost as bad if an individual unintentionally kills someone with a firearm in a fit of rage or other similar

circumstance. **Chairman McKenzie** answered that if a person intends to fire a firearm then it is still a violent crime. Unintentionally pointing a firearm at another person is a misdemeanor. There is a current distinction under the law between those two scenarios.

**Senator Winder** asked what this bill does or does not do in regards to reciprocity for other states. **Chairman McKenzie** replied that this bill does not effect reciprocity in any way. In the state of Washington, a Deputy Attorney General has noted that states that do not have equivalent laws will not have reciprocity, but that analysis does not apply because residents of other states can carry in Idaho, but they must have a permit that the State recognizes. **Senator Winder** commented that just because an individual is allowed to conceal carry in Idaho, this does not mean that they have the right to carry in other states without the proper concealed carry permit. **Chairman McKenzie** indicated that Senator Winder was correct. **Senator Winder** noted that there are additional federal restrictions in carrying firearms and that individuals must be aware that there are other laws they must follow despite the potential passage of this bill. **Chairman McKenzie** agreed. He remarked that this is why the language in the bill states that a person may still be restricted from carrying a firearm if they are ineligible to do so under the provisions of Idaho or federal law. He cited the example of gun-free school zones. **Senator Winder** asked about the enhanced permit. **Chairman McKenzie** explained that the language Senator Winder was referencing was specifically aimed at individuals between 18 and 21 years of age. These individuals would still have to go through training.

#### TESTIMONY:

**Matt Vraspir** spoke in opposition to the bill. He thinks the current law is working well. The current law is important in making sure a background check is done on an individual. Concealed carry permits make law enforcement's job easier. Forty percent of gun sales in Idaho are done privately with no background check.

**Greg Pruett**, Idaho Second Amendment Alliance (ISAA), testified in favor of the bill. He remarked that his organization was founded partially on the basis for getting permitless carry approved in Idaho.

**Leslie Madsen-Brooks** indicated that Idaho has one of the highest rates of gunshot wounds per capita in the United States. She is frustrated that students in her classes carry weapons and that she has to ask for protection at work against people that have made threats against her. She indicated that she does not feel safe in this State. The easing of gun regulations is concerning to her as a woman and as a resident of Idaho who speaks out against these issues. Gun laws should be based on research and not emotion and paranoia. She stated that research shows that an increase in the number of guns in a particular place, the more likely accidents, negligence, injury and death occur.

**Dakota Moore**, NRA, testified in support of this bill (see attachment 1). The simplicity of this bill betrays the meticulous nature and contemplation that went into the drafting of **S 1389**. He addressed Senator Winder's comments on reciprocity. This bill eliminates the presumption that someone carrying a firearm is a criminal. Open carry in Idaho has been legal since its days as a territory. He reiterated what this bill accomplishes. He stated that technology allows law enforcement greater ability to confirm whether or not an individual is prohibited from carrying a firearm. He addressed Senator Hill's questions about intent. He reiterated talking points regarding permits for 18 to 20-year-olds. This bill does not grant a license to the individual, but rather allows them to obtain the necessary training to obtain an enhanced permit when they are 21 years old. He noted that there is zero correlation between mandated training for a concealed weapons permit and incidents of accidents and misuse in a state.

**Senator Hill** asked if there was data showing an increase in gun crimes, homicides or suicides in the states that allow permitless carry. **Mr.**

**Moore** answered that he could provide that data. He commented that the states with permitless carry for a measurable amount of time show that there is no relationship between permitless carry and an increase in gun crime. There has been a decrease in homicides, robbery and other related violent crimes after the adoption of permitless carry. This decline is consistent with national trends and so there might not be a direct correlation here, but it should be noted that there has not been an increase in these crimes after a state has adopted permitless carry.

**Senator Hill** asked if the data included any information on suicides. **Mr. Moore** responded that the data he possesses does not address instances of suicide. He stated that homicide data includes suicides, but it has not been parsed out. The data for suicides can be done fairly quickly, if the Committee desired.

**Hannah Sharp**, volunteer leader, Moms Demand Action for Gun Sense in America, testified in opposition to this bill. She explained that the existing concealed carry system works and that 81 percent of Idahoans support the current law. This bill endangers responsible gun owners.

**Fred Birnbaum**, Idaho Freedom Foundation, testified in favor of the bill. He remarked that there is required training for many things, but that does not necessarily ensure proficiency in that area. He gave an example of the difference of wearing a coat while carrying a firearm versus slinging the coat over his shoulder while carrying a firearm within city limits. He highlighted another example of traveling through a city to go hunting.

**Richard Porter** spoke in opposition to the bill. He stated that having a gun is a privilege. This bill will not protect the people or the law enforcement officers of Idaho. He is concerned about what happens if Idaho goes permitless.

**Vice Chairman Lodge** remarked that Doug and Shirley Nelson are here in support of the bill, but did not wish to testify.

**Rich Chaney**, ISAA, spoke in favor of this bill. He spoke of reciprocity and how it relates to the bill. He gave the example of Alaska and how they indicated no issues with reciprocity after going to permitless carry. He referred to a survey that indicated that 81 percent of Idahoans are against this bill and noted that the question posed to them talked more about them losing business rather than their perception of permitless carry. He reiterated the argument that this deals with putting on a coat.

**Shirley VanZant**, member, Moms Demand Action for Gun Sense in America, testified in opposition to the bill. She remarked that this bill would dismantle the State's concealed carry permit system. She indicated that this bill would eliminate training requirements and also strip law enforcement of its ability to monitor someone who seeks to carry a firearm through background checks.

**Zach Brooks** testified in favor of this bill. He related that he has spoken to city police chiefs and others who were in favor of this bill. He stated that current concealed carry permit requirements provide a false sense of security. Hunters' education cards may be used as proof of training, and that training does not provide any handling of firearms in some instances. He talked about the enhanced concealed carry permit process.

**Daniel Adams** spoke in opposition to the bill. He stated that he would normally support this type of legislation, but the language of the bill causes concern for him. He spoke about the Gun Control Act of 1968 and the circumstances surrounding the State's related laws. He stated his concerns with the residency requirement, the language related to regulations of 18 to 21-year-olds outside the city limits, the completed probation restriction and the special privileges given to law enforcement.

**Alexandria Kincaid**, attorney, testified in support of the bill. She indicated that this bill does provide for the safety of law enforcement. She related the experience of a Wyoming sheriff after permitless carry was approved in his state. The sheriff noted that there has not been an increase in gun crimes or assaults on law enforcement personnel.

**David Steed**, firearms instructor, opposed this bill. He talked about the fact that no training would be required for an individual to carry a firearm.

**Parrish Miller** supported the bill. He reiterated that training is not required to carry in Idaho. He indicated that most of the concerns brought forth are not relevant to this bill. He noted that law enforcement officers should not be stopping anyone to inquire about permits unless there is a reasonable suspicion of a crime. He stated concern with the language about the residency requirement.

**Cay Marquart** opposed the bill. She showed a newspaper with the survey ad opposed to the bill.

**Jason McKrill** spoke in support of the bill. He spoke about the reason behind the right to keep and bear arms. We cannot protect our nation if we cannot protect ourselves. He highlighted other arguments for carrying arms. He indicated that current law exposed Idahoans to criminal activities.

**Chief William Bones**, Boise Police Department, spoke in opposition to the bill (see attachment 2). He addressed the language regarding 18 to 21-year-olds. There is no ability to monitor out-of-state felons under this bill because Idaho does not have an information sharing system. There are concerns about the residency language in the bill. He indicated that there are Terry vs Ohio implementation issues. He spoke to the lack of background checks that happen now when it comes to an issue of mental health or narcotic use. He remarked that the current language is working, although it needs to be improved. He advocated for the safety of citizens and law enforcement officers.



**Lonnie Pfeifer** spoke in support of the bill. He remarked that firearm ownership is a right as well as a privilege. He read the Second Amendment to the United States Constitution and then reread it with a few of the words changed. He spoke about the terms "well regulated militia" and "infringed."

**Paula Devina** spoke in favor of the bill. She thanked the Committee for allowing everyone to speak.

**Michael Kane**, Sheriffs' Association, indicated his organization's support for this bill. This bill corrects mistakes in current law.

**Harley Brown** supported the bill. He elaborated on the word "infringe."

**Fred Woodbridge** spoke in favor of the bill. He spoke about growing up in Nigeria and how the United States is a beacon of freedom. He indicated the need for the right to bear arms.

**True Pearce**, attorney and professional shooter, spoke in favor of the bill. He noted a few concerns regarding this bill's omission of language regarding federal laws for schools. Having a permit excepts an individual from staying 1,000 feet from a school, set forth under federal law. He indicated he did not know what this bill would do for reciprocity.

**Chairman McKenzie** closed the testimony portion by reading a letter from the Fraternal Order of Police regarding their support (see attachment 3).

Russell Wright (see attachment 4) and Dan Roberts (see attachment 5) sent in written testimony in support of this bill.

**MOTION:**

**Senator Siddoway** moved to send **S 1389** to the floor with a **do pass** recommendation. **Senator Lakey** seconded the motion. The motion carried by **voice vote**. **Senators Stennett, Buckner-Webb** and **Davis** are recorded as voting **nay**.

**PASSED THE GAVEL:**

Vice Chairman Lodge passed the gavel to Chairman McKenzie.

**ADJOURNED:**

There being no further business, **Chairman McKenzie** adjourned the meeting at 10:00 a.m.

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Senator McKenzie  
Chair

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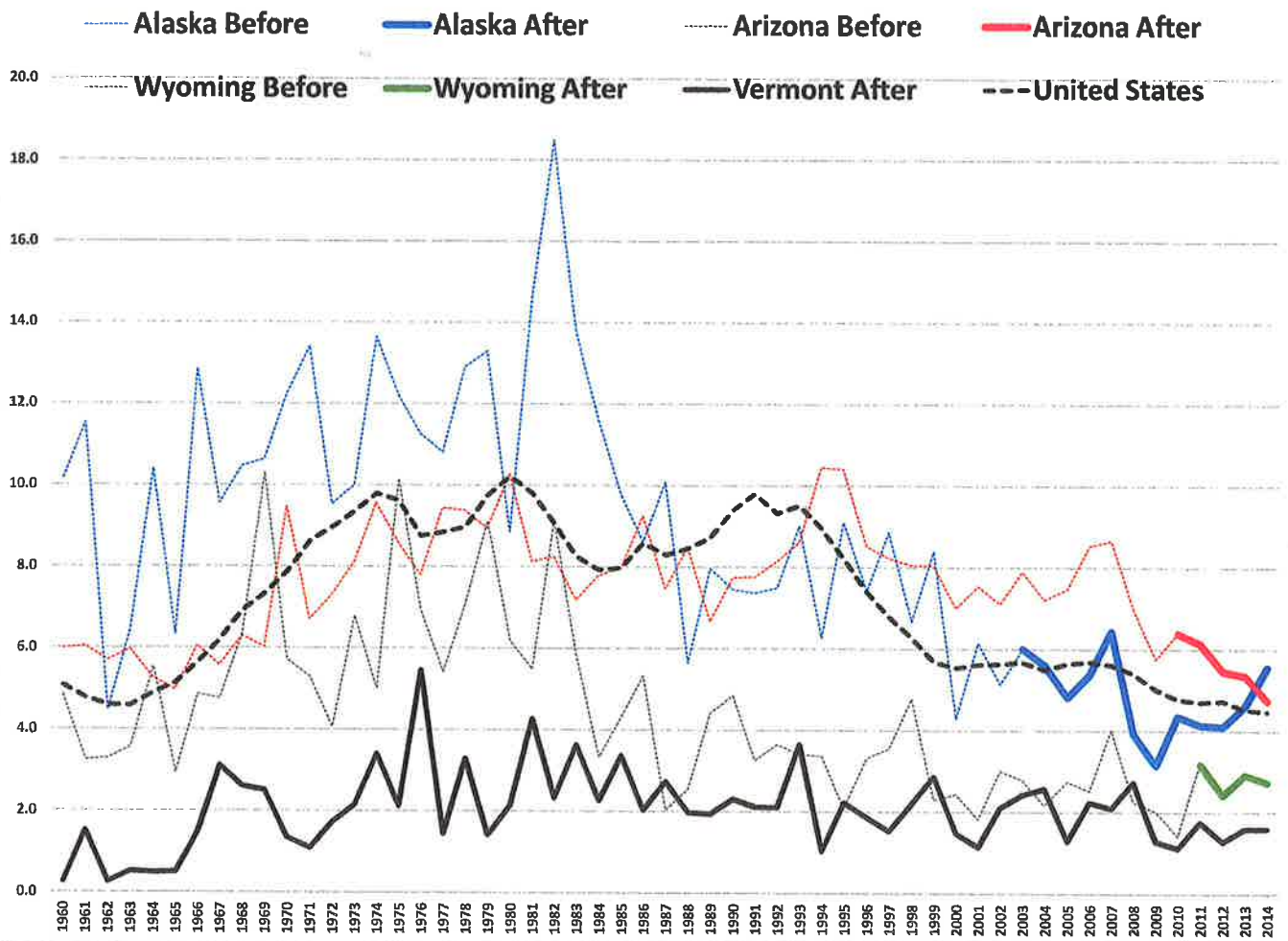
Twyla Melton, Secretary

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Assisted by Michael Jeppson

S 1389  
Dakota Moore, NRA  
Attachment 1

### Murder Rates, 1960-2014 - Permitless Carry States and the U.S.



## **Idaho permitless concealed carry bill endangers police, public**

Idaho Statesman, March 13, 2016

Three Ada County police chiefs hope concerned citizens attend an Idaho Senate hearing Monday in opposition to a bill that would remove concealed carry regulations in Idaho cities.

By Bill Bones, Jeff Lavey and Rick Allen

For nearly a century Idaho has maintained a strong concealed carry permitting system, requiring that anyone carrying a concealed weapon inside city limits possess a valid concealed weapons license. This system was designed to protect the safety of all Idahoans, including the law enforcement officers who serve and protect our communities.

As chiefs of police serving within Ada County, we not only believe in the Second Amendment but we support every element of the U.S. Constitution. We lead law enforcement agencies sworn to protect our communities and citizens, filled with officers who risk their lives to ensure the safety of our citizens.

On Monday the Legislature will be hearing Senate Bill 1389. If passed, SB 1389 would remove Idaho's required permitting system and make it lawful for people to carry concealed loaded handguns in public without a license or background check within the city limits of all Idaho cities.

Without the requirement to possess a concealed weapons license, law enforcement will lack a lawful means of preventing individuals prohibited from lawfully possessing firearms (i.e. convicted felons, prohibited possessors or psychologically impaired). Additionally, SB 1389 does not require individuals carrying a concealed weapon to notify law enforcement of the concealed weapon during a police contact. As a result of these safety concerns we oppose this legislation as currently written.

We believe dismantling the long-standing and effective permitting system without taking additional precautionary steps will weaken public safety in two fundamental ways:

First, under our existing law, sheriffs may require an applicant demonstrate familiarity with a firearm before issuing a concealed carry permit. SB 1389 would strip law enforcement's ability to ensure persons carrying guns in our communities know how to handle firearms safely.

Second, a criminal records check on all permit applicants ensures they are not prohibited from possessing or carrying guns. SB 1389 will allow those who have never passed a check to carry concealed weapons.

Additionally SB 1389 will put law enforcement at risk. When officers lawfully stop a person suspected of committing a crime and discover he is armed, Idaho's current system

allows us to check for a valid permit to carry the gun. Our concealed weapons licensing system is the only way to determine the person is not a felon or dangerous person prohibited from possessing firearms.

As law enforcement professionals who carry firearms every day we know firsthand the responsibility associated with handling and owning firearms. We must ensure changes to Idaho's laws are well-vetted and safeguard the safety of all citizens. The passing of this bill will not make our streets nor our citizens safer. We oppose SB 1389 as drafted and urge the Idaho Legislature to work with all law enforcement to improve the proposed legislation and enhance and protect the safety of all citizens in Idaho.

Bill Bones is Boise chief of police. Jeff Lavey is Meridian chief of police. Rick Allen is Garden City chief of police

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## **Fight brewing over gun legislation**

Bonner County Daily Bee

Constitutional carry bill catches momentum in Legislature; concerns linger

Posted: Sunday, March 13, 2016 10:00 am

By BRIAN WALKER Hagadone News Network

An Idaho bill to allow concealed carry without a permit is gaining momentum and setting up a metaphorical gunfight between law enforcement groups and officials.

The proposal has gained support from some gun and law enforcement groups, but is raising the eyebrows of some regional law enforcement officials, including Coeur d'Alene Police Chief Lee White and Kootenai County Sheriff Ben Wolfinger.

"Constitutional carry is a legal issue for law enforcement, and the issue is presumptive," White said. "Right now if I see you walking down the street and there is a bulge consistent with an outline of a firearm that appears to be concealed, I can legally stop you for the minimal amount of time it takes for me to validate you are a permit holder.

"Under this (proposal), I cannot do that anymore, which means you can be a felon walking down the street with a gun and I can't detain you."

Idaho has allowed permitless concealed carry outside of city limits for those involved in hunting, fishing and outdoor activities. In 2015, the sporting requirement was dropped as a prerequisite. However, carry inside cities still requires a permit.

Under the proposed legislation in the Senate, carry laws would largely homogenize across the state, allowing those over 21 who are legally able to possess a firearm to carry a concealed handgun statewide without first obtaining a permit, while those between 18 and 20 could still carry them outside of city limits and apply for a permit for carry in those urban areas.

A public hearing on the bill will be held on Monday before the Senate State Affairs Committee.

A similar House bill stalled in committee since it was introduced in January.

Currently, Idaho issues a license to carry a concealed weapon on a shall-issue basis, and open carry is legal without a permit.

The Senate bill (1389) sponsored by Curt McKenzie, R-Nampa, has the support of the Idaho Sheriff's Association, Idaho Freedom Foundation, National Rifle Association and Citizens Committee for the Right to Keep and Bear Arms. Among the co-sponsors of the bill are Sen. Steve Vick, R-Dalton Gardens, and Rep. Don Cheatham, R-Post Falls.

Supporters of the Constitutional carry bill believe it would align Idaho law with the true meaning of the Second Amendment without changing law enforcement tactics. They also say it is well-known that most people who commit criminal acts don't follow permitting rules anyway.

Alaska, Arizona, Arkansas, Kansas, Maine, Vermont, West Virginia (takes effect May 26) and Wyoming are considered Constitutional carry states. In Wyoming's case, permitless carry is for residents only. Non-residents must have a permit to carry a concealed handgun.

In many states in which Constitutional carry has not been approved, opposition from law enforcement lobby groups due to safety concerns were a factor.

Wolfinger said the Senate bill is poorly written and confusing.

"I have always stated that I am opposed to not being able to screen people at the onset," Wolfinger said. "As the bill is now written, if we find someone carrying concealed in the field, then we must research if they are a convicted felon or adjudicated as mentally ill. This takes time. That is why the initial screening process is important. On the other hand, a requirement for a permit does not stop the convicted felons and those who have been adjudicated mentally ill from carrying without a permit.

"The current law also allows the sheriff to require some demonstration of some firearms safety training (such as military experience or hunter's education). The proposed bill takes that away."

White said he is concerned the bill would create another barrier for police. He believes it would be better to work on a compromise proposal after the Legislature adjourns because it would have major impacts for law enforcement.

"I'm a huge supporter of the Second Amendment, but I don't want to take away a good tool of law enforcement," White said. "I make my arguments with the understanding that most people don't want convicted felons to have firearms.

"With the existing law, when the bad guys have the guns, we can take them to jail. Under the proposal, you lose that presumptive piece and there's far less people going to jail."

A bill was also introduced in the Legislature in 2011 to allow Constitutional carry. The bill would have altered the existing law by requiring intent to use the weapon unlawfully, and would have prohibited the state from inferring intent merely by the fact that a person possessed a loaded weapon.



IDAHO  
**FRATERNAL ORDER OF POLICE**

333 MARK STALL PLACE • BOISE • IDAHO • 83705

S1389  
Attachment 3

March 14, 2016

Honorable Senator Curt McKenzie, Chairman  
Senate State Affairs Committee  
Idaho State Legislature  
P.O. Box 83720  
Boise, Idaho 83720

RE: S1389

Dear Chairman McKenzie and members of the Senate State Affairs Committee:

The Idaho Fraternal Order of Police (FOP) is the largest police organization in Idaho with over 1800 members statewide and we support Senate bill 1389. The Idaho FOP believes that law abiding, mentally sound and responsible gun owners are our partners in keeping crime rates low in Idaho. We are grateful for the legislators, the National Rifle Association and the Idaho Firearms Alliance for working with the FOP addressing our concerns, and crafting a responsible piece of legislation that our members support.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Jagosh", written over a horizontal line.

Paul Jagosh  
Idaho Fraternal Order of Police  
Legislative Chairman

*"The Voice of Law Enforcement"*



March 10, 2016

Russell Wright  
2038 N Wingate Pl  
Meridian, ID 83646

S1389  
Attachment 4

To: Idaho State Affairs Senate Committee

Attn: The Honorable Curt McKenzie

Sir –

I wish to comment upon the pending legislation your committee will soon take up for a vote.

Senate Bill 1389 (a proposed amendment to the Concealed Weapons law) allowing “permitless concealed carry” *is a step in the right direction!*

I appeal to the committee to consider one basic question:

- Will continuing to require law-abiding citizens to register and license themselves to carry weapons have ANY effect on crime?

Criminals, by definition, do not obey laws. Yet, Idaho requires the law-abiding citizen – who seeks only to defend himself from criminals who do not obey the law – to go through training, undergo a background check and pay money in order to avail himself of the God-given right to self-defense.

For anyone who fears that “permitless concealed carry” will mean murder and mayhem, I encourage a close look at Vermont – a state that has had “permitless” concealed carry on the books for a long time; yet, Vermont has the lowest violent crime rate in the country.

While Idaho already has one of the lowest rates for violent crime, we can do better. Permitting law-abiding citizens to carry concealed without the licensing process will help to drive crime rates even lower.

Criminals prey upon the weak – they seek easy targets. Permitless concealed carry in Idaho would create doubt in the minds of criminals because ANY law-abiding citizen could now be armed – not just those who went to extraordinary lengths to obtain a permit.

I hope this opinion is in some way helpful.

Best regards,

Russell Wright  
US Marine Corps – 1986-1990, Sgt

## Twyla Melton

---

**From:** Dan Roberts [dan.lostriverlog@gmail.com]  
**Sent:** Sunday, March 13, 2016 10:08 AM  
**To:** Twyla Melton  
**Subject:** SB 1389 committee testimony

SB 1389  
Attachment 5

Chairmen and committee members

Please consider reading this testimony during the public comment portion of the hearing in SB 1389

Thank you.

Text of statement.

Mr Chairmen and committee members

My name is Dan Roberts I live in Rexburg Idaho.

My comments today specifically relate to those changes proposed in page 2 of SB 1389 subsection (f) or lines 19-23.

I would like to commend this committee for taking up this bill which relates to unalienable rights AKA Gun Rights, a right which will re-empower Idahoans to be able once again to protect their lives, liberty, and property wherever they may be within the state of Idaho. Why and how this right was ever abridged is not completely known to me, but I am grateful that we are on the cusp of restoring a right.

Many have opined that a freedom once lost is never reclaimed, today I hope to see this committee disabuse that idea and start to heal and dispel that myth.

Why is gun ownership a right? Because it allows its occupant to protect his other rights in the ultimate sense. Each individual is endowed by their creator with certain unalienable rights, among which are life, Liberty, and happiness, and as I mentioned above "property"--meaning of course that no one but the possessor of a right has the ability to forfeit those rights by action or will. Without these three rights and the power and right to protect them men cannot claim they are free, because having something without the ability of perpetuating it is not self determination or freedom, it leaves the individual without the power to act, but only to be acted upon--especially by those with ill intent or superior strength. Guns are an equalizer, and a society that allows equality creates an atmosphere of politeness and safety.

The Supreme Court has upheld in Heller vs DC that each law abiding American has an individual right to self protection by possessing a firearm. Idaho has always upheld that standard to some degree, but for some reason, I believe we have irrationally limited the most effective means of doing so--through concealed carry. Why would anyone fear a law abiding citizen carry concealed when they wouldn't even have knowledge to determine who was carrying in the first place? This is especially true due to the fact that current laws allow for the same right to carry openly. It seems that if we were fearful of guns that the mere open viewing would cause much more fear to those concerned. Additionally criminals always conceal to avoid undue attention to themselves anyway, we should fear criminals but criminals are wise enough to not obey laws in order to avoid detection. So in the end we end up creating a moral dilemma and a cruel choice for law abiding citizens to either obey the law which restricts and may limit their ability to protect their lives, buy a permit--which is antithetical to rights--or to ignore the law--but be completely morally justified--but then becoming an uncharged felon.

Laws can be constitutional but immoral--restricting an unalienable right is immoral, legislation that legislates away a right is not a law at all and has no moral force John Locke argued in his Treatise on Government. If Locke was correct, then this body has a fiduciary responsibility to reject and repeal laws that do so or seek to rectify them as in this case.

If we assume that the general law abiding public are not wise, or moral enough to act responsibly in the concealment of fire arms for their own safety and protection then maybe it's time for us to reassess why we serve in government or what its proper role should be or is.

Do (you)"We hold these truths to be self evident, that all men are created equal"--do we seek to allow those weaker in stature or who are law abiding to even the playing field, to create equality if you will--Do (you) we believe that our citizens are "endowed by their Creator with certain unalienable rights"? Do (you) we believe "that to secure these rights governments were instituted among men, deriving their just powers from the consent of the governed" and that they have a right to alter the laws and the government in order to secure those rights? If not Mr. Chairman and Committee members our legislative efforts are not in line with the rights our God intended for his children, and our founders succinctly quantified in the Constitution.

Let us today once and for all dispel the lie that a freedom lost can never be restored, and I appeal to your conscience today to do so. Please vote to send SB 1389 to the floor with a do pass recommendation.

As Ronald Reagan once said: "freedom is never more than one generation from extinction". Let's make sure our generation isn't complicit in extinguishing the rights that each of us should have and need to protect our lives, liberty, and property.

Thank you.

--

Dan Roberts

Lost River Log and Supply LLC.

Cell: (208) 390-0812

Mail: [dan.lost.riverlog@gmail.com](mailto:dan.lost.riverlog@gmail.com)

"The price of freedom is eternal vigilance"

Thomas Jefferson

**AMENDED AGENDA #1**  
**SENATE STATE AFFAIRS COMMITTEE**  
**8:00 A.M.**  
**Room WW55**  
**Wednesday, March 16, 2016**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#"><u>HCR 38</u></a>	STATING FINDINGS OF THE LEGISLATURE and recognizing a national day of the cowboy.	Representative Miller
GUBERNATORIAL APPOINTMENT:	The Gubernatorial reappointment of Paul J. Schneider to the Idaho State Racing Commission.	
<a href="#"><u>HCR 46</u></a>	STATING FINDINGS OF THE LEGISLATURE urging Idahoans to participate in activities surrounding the 2016 U. S. Capitol Christmas Tree.	Representative Gestrin
PRESENTATION:	Emergency Communications Commission Annual Report	Garret Nancolas, Mayor of Caldwell
		Craig Logan, Idaho Bureau of Homeland Security

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman McKenzie	Sen Siddoway
Vice Chairman Lodge	Sen Lakey
Sen Davis	Sen Stennett
Sen Hill	Sen Buckner-Webb
Sen Winder	

COMMITTEE SECRETARY

Twyla Melton  
Room: WW42  
Phone: 332-1326  
email: sstaf@senate.idaho.gov

MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Wednesday, March 16, 2016

**TIME:** 8:00 A.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Lodge, Senators Davis, Hill, Winder and Lakey

**ABSENT/ EXCUSED:** Senators Siddoway, Stennett and Buckner-Webb

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**CONVENED:** **Chairman McKenzie** called the Senate State Affairs Committee (Committee) to order at 8:00 a.m. with a quorum present.

**HCR 38** STATING FINDINGS OF THE LEGISLATURE and recognizing a National Day of the Cowboy.

**Representative Miller**, District 26, said that HCR 38 establishes the National Day of the Cowboy to celebrate who we are and where we came from in the West. That cowboy tradition has always reflected core values for people growing up in the West. In Representative Miller's childhood, the cowboys were the ones who were respected, who got the job done and who set a standard for young people. **Representative Miller** read part of the bill on lines 36-41 and drew attention to a handout; "The Code of the West" (see attachment 1).

**Chairman McKenzie** noted that 30 million fans worldwide attend rodeos and that Canyon County has two of the top 10 rodeos in the nation: Caldwell Night Rodeo and the Snake River Stampede.

**Senator Harris**, District 32, said that when he was originally asked about this bill, his first question was "why?" "What does it have to do with Idaho?" Idaho ranks number 11 in the nation as a cattle producing state; it takes cowboys to make that happen. Idaho is home to 2 of the top 20 feedlots in the nation; cowboys are the ones that keep these lots going. Idaho is home to 2 of the top seed stock growers (purebred breeders) in the nation and home of the number 2 cow-calf producer in the nation, J. R. Simplot. It takes cowboys to run these companies. **Senator Harris** described cowboy activities: they go out in the night and during blizzards to watch and care for the stock.

Because of Idaho cowboys, Del Harwood of Shelley, Idaho, has become one of the top saddlemakers in the nation. Idaho raises about \$2.5 billion worth of cattle a year and Idaho is home to about 4,000 ranching families. The heyday of the cowboy was during the time following the U. S. Civil War up to late 1880, when falling cattle prices, hard winters and barbed wire put an end to the days of free range.

**Senator Harris** displayed some pictures of a cowboy family that showed six generations living on the same ranch since about 1880 in Bear Lake County. The barn is still standing and the cowboy in training is the sixth generation. Cowboys are who we are, with their streaks of independence, resilience and love of open space and animals, especially horses and cows. A horse is the cowboy's tool and part of his identity.

**Vice Chairman Lodge** commented that Canyon County not only has two of the top ten rodeos in the United States, it also has one of the top equine hospitals, the Idaho Equine Veterinary Hospital, where people bring horses from around the region for treatment. There is also the horse park in Nampa where there are snaffle bit, quarter horse, and cutting horse competitions and shows that bring economic development and tourist money into Canyon County. The horse industry is over a \$1 billion dollar industry in the State. She stated her sadness that racing activities weren't being encouraged because that brought economic resources into the State.

**Senator Winder** said he attended an awards ceremony at Concordia University School of Law to honor Judge Edward Lodge. **Senator Winder** knew he had grown up on a ranch and farm and loved that way of life but was unaware of a time in his life when he wanted to be a cowboy instead of an attorney and judge. **Senator Winder** said that throughout his life and accomplishments there was always that love of the cowboy life and that his ranch and family was most important to him.

**MOTION:** **Vice Chairman Lodge** moved to send **HCR 38** to the floor with a **do pass** recommendation. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

**GUBERNATORIAL APPOINTMENT:** The Gubernatorial reappointment of Paul J. Schneider to the Idaho State Racing Commission (Commission).

**Chairman McKenzie** recognized Paul J. Schneider's distinctive "voice of the radio" and thanked him for his continued service on the Commission.

**Senator Davis** referred to the history of the Commission and the Legislature over the last few years and, although he disagrees with the Commission, that is a different issue than supporting good people who are willing to serve on the Commission. **Senator Davis** assured Mr. Schneider that he is grateful for his willingness to have served so many years in this industry.

**Mr. Schneider** thanked Senator Davis and stated that it has been quite an experience to serve on this Commission.

**Chairman McKenzie** indicated that the Committee would vote at the next meeting.

**HCR 46** STATING FINDINGS OF THE LEGISLATURE urging Idahoans to participate in activities surrounding the 2016 U. S. Capitol Christmas Tree.

**Representative Gestrin**, District 8, stated that it is his privilege to present HCR 46. Since 1970, a tree has been chosen from a national forest somewhere in the country for display on the front lawn at the U. S. Capitol (Capitol). 2004 was the last time a tree came from Idaho, and it was taken from the Boise National Forest in Valley County. The 2016 tree will be selected from the Payette National Forest and probably will be cut in Adams County.

**Chairman McKenzie** stated that Representative Gestrin's District covers a lot of territory in the State. **Representative Gestrin** said he has the Salmon-Challis National Forest, the Sawtooth National Forest, the Boise National Forest and the Payette National Forest – 18 percent of the land in Idaho. The newly created Boulder-White Clouds Wilderness is also part District 8.

This winter, the smoke jumpers have donned snow shoes to select candidates for the Capitol Christmas tree. The tree will be around 80 feet tall; the species has not yet been identified. This summer the Capitol architect will come to Idaho to make the final selection. It will be cut in December and travel to different communities in Idaho. **HCR 46** urges the people in those communities to participate in the celebration of the Capitol Christmas tree and to encourage students to make Christmas ornaments; 8,000 ornaments are needed. This is a special privilege for the citizens and the State.

**Chairman McKenzie** commented that it is always a pleasure to see those trees displayed at the Capitol.

**MOTION:**

**Vice Chairman Lodge** moved to send **HCR 46** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

**Chairman McKenzie** introduced Craig Logan from the Idaho Bureau of Homeland Security who will be presenting an update for the Emergency Communications Commission.

**PRESENTATION:** Idaho Emergency Communications Commission (IECC) Annual Report (see attachment 3).

**Craig Logan**, 911 Program Manager for the IECC, explained that the funding for the operations of the IECC comes from the assessment level of one percent of all emergency communication fees collected in the State.

The fiscal year operations budget was approved at \$252,400; revenue collected in 2015 was \$186,684; the Enhanced Grant Fees generated \$2,128,681. A full explanation can be found on page 5 of the report. Grant fees allocated for 2016 are \$1,108,097, see page 2-3.

Goals of the IECC are to:

- Ensure that all Public Safety Answering Points (PSAPS) are brought to the E9-1-1 level. The Commission met that goal in 2014 when Butte County went live with its system.
- Ensure that all PSAPS are compliant with requirements to receive information from callers using wireless or cell phones: Phase I and II. That goal was met in February 2016 when Butte County went live with Phase II. Oneida and Clark Counties had to upgrade their systems and are now Phase II. All 46 PSAPS in the State are Phase II compatible.
- Assess the feasibility of implementing Next Generation 9-1-1 throughout Idaho. That is currently in progress. There is a Next Generation working group that is beginning the process of planning for Idaho. Two contractors have been selected to run an assessment throughout the state to identify the feasibility, the cost and the implementation for Next Generation.

Results for the IECC show that all 46 PSAPS are Phase II capable. Since 2010, approximately \$13.0 million has been returned to the counties through the Emergency Grant Fund to help them with E9-1-1, Phase I - Phase II. Thirty nine out of 44 counties participate in this fund. It is a huge opportunity and a great help for smaller, more rural counties. County-to-county participation have allowed counties to work together, share and locate equipment and do a host remote operation.

The PSAPS Standards and Training Committee continues to work toward certification of the dispatchers within the State. This is bringing stakeholders together to share information, to achieve consensus and make recommendations to the IECC. **Mr. Logan** listed the counties and cities that have text 9-1-1 capabilities.

**Chairman McKenzie** commented on the appendix pages that show the history of the expansion of service over the years 2008 - 2014. **Mr. Logan** responded that a lot of work has occurred resulting in great benefits to Idaho citizens.

**Chairman McKenzie** thanked Mr. Logan for the presentation and recognized the Borah Government class that was attending the meeting. He stated his appreciation to the Committee and alerted them of the change to the Lincoln Auditorium for the next meeting.



**ADJOURNED:** There being no further business, **Chairman McKenzie** adjourned the meeting at 8:25 a.m.

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Senator McKenzie  
Chair

---

Twyla Melton  
Secretary

# Code of the West

1. Live each day with courage
2. Take pride in your work
3. Always finish what you start
4. Do what has to be done
5. Be tough, but fair
6. When you make a promise,  
keep it
7. Ride for the brand
8. Talk less and say more
9. Remember that some things  
aren't for sale
10. Know where to draw the line



United States Department of Agriculture

HCR 46 - Representative  
Gestirn.  
Attachment 2

## 2016 Capitol Christmas Tree Payette National Forest

The Payette National Forest has been selected to provide the 2016 U.S. Capitol Christmas Tree. For more than 50 years a tree has graced the west lawn of the U.S. Capitol; and since 1970, a national forest has been selected to provide the honored tree, a gift from the national forest and its home state. The last time the tree came from Idaho was in 2003, when the Boise National Forest provided an Engelmann spruce from the Middle Fork of the Payette River.

**Showcasing Idaho!** An annual symbol of hope and celebration, the tree is an opportunity to showcase how Idaho's landscape sustains and inspires us. The tree will symbolize Idahoans and our connection to the communities that make up our home. Idahoans rely on our national forests for the habitat they provide for wildlife, for their outstanding scenic value and world-class recreational opportunities, and for the economic opportunities they provide to communities.

**Thousands of ornaments made by Idaho children.** In addition to providing a 60-85 foot tree to the U.S. Capitol, 8,000 ornaments designed and created by school- children across Idaho will decorate the tree. Each ornament will symbolize a part of Idaho. By using our state's official symbols such as the Syringa, Appaloosa horse, cutthroat trout, western white pine, star garnet and many more, each ornament will represent a part of Idaho that is near and dear to us. As our state is well known for our potatoes, we will of course design an ornament that highlights the potato as our state vegetable.

**Companion trees.** An additional 70 companion trees of 6 to 25 feet in height will accompany the Capitol Christmas tree and be set up in congressional and other governmental offices in Washington D.C. These



Playing off our "Gem State" nickname, we developed a theme and logo for the 2016 Capitol Christmas Tree.

companion trees also come from Idaho, and our staff will partner up with many of the Christmas tree growers in northern Idaho to donate these trees for the project. Each companion tree is delivered to the D.C. offices with ornaments, and a tree skirt also made by Idahoans.

**It takes strong partnerships to pull off this project!** The Payette National Forest and its lead non-profit partner for the project, Choose Outdoors, are already in full swing and working on the project. We will make contact with many businesses throughout the state to offer sponsorship opportunities to help offset the costs of the project. These sponsors will be afforded the opportunity to highlight their business throughout the state and across the county to further show the unique and diverse business opportunities we have in Idaho.







**Celebration events!** Once the Capitol Christmas tree is selected from somewhere on the Payette National Forest, we will host a Tree Cutting event that is designed to recognize and honor the many contributing partners that have made the project possible. That location is a secret for now, but it is safe to say that it is in an accessible part of the Forest.

Following the Tree Cutting, the Capitol Christmas tree will make a tour through southern, central, and northern Idaho. Each tour stop is intended to be a celebration of the season, but also will honor the thousands of school children who have made ornaments.

Once on the road to Washington D.C., the Capitol Christmas tree will make several stops in states along the route. These stops are a great opportunity for people from other states to learn about Idaho and celebrate the holiday season.

We are also planning events for McCall's Winter Carnival and a Christmas in July event that will help spread the word about the project and help to get ornaments made.

**Our Elected officials.** The Forest will be working closely with elected officials on planning local and D.C. events and community collaboration across Idaho. We welcome all involvement that our elected officials!

**Volunteers!** Groups, organizations, and individuals interested in helping with the year-long celebration can contact the Payette National Forest at 208-634-0700 or by e-mail at bdharris@fs.fed.us.

**Choose Outdoors.** Our non-profit partner in pulling this project off is actively pursuing sponsors for the logistics of getting the tree, ornaments and companion trees to Washington D.C. If you are interested, please contact Bruce Ward at bruceward1@gmail.com, or 303-917-1476

<http://www.capitolchristmastree.com/>  
<https://www.facebook.com/USCapitolChristmasTree>



# IDAHO EMERGENCY COMMUNICATIONS COMMISSION 2016 ANNUAL REPORT TO THE IDAHO LEGISLATURE



Prepared by:

STATE OF IDAHO EMERGENCY COMMUNICATIONS COMMISSION

January 7, 2016





## Idaho Emergency Communications Commission

### 2016 Annual Report to the Idaho Legislature

#### Overview

The Idaho Emergency Communications Commission ("IECC") has worked diligently since its inception in 2004 to address the needs and improve the 9-1-1 telephone systems operated by Idaho counties and cities throughout the state. Consolidated emergency communications system centers that are commonly known as dispatch centers or Public Safety Answering Points ("PSAP") receive emergency calls from the public via 9-1-1 or a seven-digit phone number. The PSAPs are termed consolidated under Idaho law as all vital public safety agencies are dispatched out of the center and the PSAPs send the necessary assistance whether it is law enforcement, fire, or emergency medical services without the caller needing to dial separate numbers.

#### Highlights of 2015

- **Enhanced Grant Fee Fund Awards to Provide Funding for 911 Center upgrades in 2016**

<b>ADAMS COUNTY</b>	<b>\$24,672.00</b>
<b>BENEWAH COUNTY</b>	<b>\$184,987.79</b>
<b>BOUNDARY COUNTY</b>	<b>\$138,545.00</b>
<b>BUTTE COUNTY</b>	<b>\$46,316.62</b>
<b>CAMAS COUNTY</b>	<b>\$109,814.00</b>
<b>CARIBOU COUNTY</b>	<b>\$10,085.00</b>
<b>CITY OF TWIN FALLS</b>	<b>\$115,495.87</b>
<b>KOOTENAI COUNTY</b>	<b>\$71,564.14</b>
<b>LEWIS/NEZ PERCE</b>	<b>\$149,029.44</b>
<b>ONEIDA COUNTY</b>	<b>\$43,067.00</b>

Idaho Emergency Communications Commission  
2016 Annual Report to the Idaho Legislature



OWYHEE COUNTY	\$23,572.80
PAYETTE COUNTY	\$89,529.00
TETON COUNTY	\$21,419.12
E911/NG911 PLANNING	\$80,000.00

**TOTAL \$1,108,097.78**

### **Mission and Purpose**

The mission of the Idaho Emergency Communications Commission:

Enhancing Idaho's public health, safety, and welfare by assisting emergency communications and response professionals in the establishment, management, operations, and accountability of consolidated emergency communications systems.

The Idaho Emergency Communication Commission was created by the Idaho Legislature in 2004 pursuant to amendments to the Idaho Emergency Communication Act, Idaho Code § 31-4801 *et seq.* The purpose and responsibilities of the Commission granted by the Idaho Legislature are centered on finding solutions to the difficulties of counties and cities to keep up with technological advances in the area of 9-1-1 and emergency communications for public safety purposes in general.

There are currently forty-six (46) PSAPs in Idaho, forty (40) are operated by county sheriff's offices, five (5) by cities through their police departments or by contract with another city, (City of Moscow), and four counties (Twin Falls, Jerome, Lincoln and Gooding) are served by a regional PSAP known as SIRCOMM. There are currently three (3) Secondary PSAPs in Idaho operated by the Idaho State Police (North and South) and State Comm.

Please refer to Appendix N for references to the legislative authority for the creation of the IECC.



## Commission Representation

The Commission is comprised of thirteen members and one ex-officio member. As indicated below, the majority of the members represent various local statewide governmental associations, interested members of the private sector and the public at large from all regions of the State of Idaho. All of these members are appointed by the Governor. Two members are members by nature of their position-Director of the Idaho State Police or designee and the Adjutant General or designee. The ex-officio member is a representative of the Attorney General's Office.

**Mayor Garret Nancolas – Chair**  
Association of Idaho Cities  
City of Caldwell

**Representative Rich Wills – Vice Chair**  
Public at Large  
Idaho House of Representatives

**Michele Carreras – Treasurer**  
Idaho State Emergency Medical  
Services Communications Center

**Bruce Cheesman**  
Idaho Emergency Medical Services Assoc.  
Idaho Bureau Emergency Medical Services

**Chief Scot Haug**  
Idaho Chiefs' of Police Association  
City of Post Falls

**Lt. Kevin Haight**  
Designee for **Col Ralph Powell**, Director  
Idaho State Police

**Lan Smith**  
Idaho Association of Counties

**Sheriff Len Humphries**  
Idaho Sheriff's Association  
Fremont County

**Chief Paul Roberts**  
Idaho Fire Chiefs Association  
Boise Fire Department

**Bryan Taylor**  
Idaho Prosecuting Attorneys Association  
Prosecuting Attorney, Canyon County

**Jodi McCrosky**  
Traditional Phone Service Industry

**Jerry Piper**  
Wireless Phone Industry  
CTC Wireless

**Brad Richy, Director**  
Idaho Bureau of Homeland Security  
Designee for **Major General**  
**Gary Sayler**

**Andrew Snook**  
Deputy Attorney General  
Idaho Attorney General's Office

## **Activities and Accomplishments**

### **• Meetings and Training Seminars**

The Commission conducted bi-monthly meetings throughout 2015. In keeping with the Commission's mission and to accommodate the interest from different areas of the state, the Commission met in Hailey in May and again in Post Falls in November.

### **• Operations and Funding**

The funding for the operation of the Commission comes from an assessment level of one percent (1%) of all emergency communications fees collected in the state. The service providers collect the fee in the amount up to \$1.00 per line from their customers and then remit this to individual counties or 9-1-1 service areas. The counties are then responsible for sending 1% of the fee to the Commission.

The Commission approved an annual operating budget of \$252,400.00 for fiscal year 2016 (FY16) attached as Appendix B. During fiscal year 2015 (FY15), \$186,684.06 was revenue collected from the forty four counties who currently assess and collect the fee. A copy of the final operating budget for FY15 is included in Appendix A.

With the implementation of the Enhanced Grant Fee and thirty-nine (39) participating counties of forty-four (44) total, the revenue collected through this fee was \$2,128,681.86 in FY 2015. See Appendix L for a list of participating counties and Appendix N for legislative authority for the Enhanced Grant Fee

### **• Status of E9-1-1 in Idaho**

The Commission has continued to assess the needs of the local governments throughout Idaho. We understand that citizens expect the same level of service throughout the state regardless of how they are contacting area 9-1-1 centers throughout Idaho through the use of a wireline or wireless phone and whether or not they are in an urban or rural setting.

The key to this service is known as Enhanced 9-1-1 ("E9-1-1"). E9-1-1 is the ability of a PSAP to obtain a caller's callback number and an address when a caller dials 9-1-1. This means that the PSAP receives voice-only 9-1-1 calls and the dispatcher must obtain the type of emergency, the telephone number and the location from the caller. If the caller is unable to speak the needed emergency response is delayed. All PSAPs in Idaho currently have this capability (E9-1-1). With the awards of the FY15 Enhanced Grant Fee all counties in the State of Idaho have E9-1-1 capabilities and were also Phase II Wireless compliant by the end of 2015. One county is still undergoing final testing with the vendors for Phase II install and will be complete by the end of 2015 if testing goes as planned in December of 2015.

The Commission has set goals to ensure that all citizens in the State of Idaho are able to benefit from technology widely available. These strategic goals are as follows:

1. Ensure that all PSAPs are brought to the E9-1-1 level. It should be noted, this goal was met in 2014 when Butte County went live with their new system. Complete.
2. Ensure that all PSAPs are compliant with requirements to receive information from callers using a wireless or cell phone, which is known as Phase I and Phase II. Phase I ensures that a PSAP has a callback number for the wireless phone and identification of the cell-tower from which the call originated. Phase II means that a wireless 9-1-1 call has Phase I requirements plus location of the caller within 125 meters of the location of the call 67% of the time and selective routing based upon those coordinates. This essentially means that a PSAP can direct first responders to the basic location of the caller. Of the forty-six (46) PSAPS with E9-1-1 capability, forty-six (46) are capable of receiving name, phone number and location information from a caller using a wireless phone. With the FY 2015 grant awards we are happy to say that by the end of 2015, all Counties are Phase II compliant with the last county undergoing phase II install with the vendors in December of 2015. Complete.
3. Assess the feasibility of implementing Next Generation 9-1-1 ("NG9-1-1") throughout Idaho. NG9-1-1 is a system comprised of managed IP-based networks and elements that augments present E9-1-1 features and functions. It is designed to provide access to emergency services from all sources and to provide multimedia data capabilities for PSAPs. A good example would be a caller using text messaging from a wireless phone or similar form of communication devices to access an Idaho PSAP. We are gathering data regarding the funds available, costs, requirements, and feasibility of NG 911 for the state of Idaho. The Commission has approved a subcommittee of representatives from each PSAP area to comprise a working group to begin the process of planning for Idaho. In progress.

The Commission is pleased to report that in 2015 through the 25-cent grant fund, all of the 46 PSAPs are E9-1-1. In keeping with our goals and utilizing the grant fund, the 46 PSAPs are either Phase II Wireless compliant or have been given grants and are in the migration process. By the end of 2015, 100% of all PSAPs are Phase II compliant. Sustainment and maintenance of this capability will be the focus until we can move forward into. The Commission is prioritizing equipment consolidation and sharing between PSAPs to help decrease costs and duplication of equipment.

The main obstacle for all PSAPs is the lack of resources and funding (including equipment maintenance and upgrade costs). E9-1-1 systems are expensive and

require annual maintenance agreements. These costs tend to be in excess of the revenue received from current fees collected in those counties.

The Commission's goal was to move all PSAPs to Phase II by January 2014. Due to a delay in standing up Butte County's system, and equipment that was no longer supported by the vendor (Oneida and Clark Counties), this goal was met at the end of 2015. The success of the grant fund is an outstanding item of note and the Commission is pleased to report that all counties in Idaho are E9-1-1 and are Phase II capable by the end of 2015. Washington and Payette Counties embarked on a first of its kind in the State of Idaho coordinated host remote system in 2015. This system is a shared call processor housed at the central telephone office that both PSAPs are tied into. This demonstrates the ability for counties to enter into a joint grant request to share resources and equipment. Consequently, this type of system will save resources for the counties, commission, and individual citizen while increasing survivability and interoperability for both PSAPs.

The Commission completed and approved a state plan for the implementation of Next Generation 9-1-1. The Plan utilizes the format outlined in the collaborative agreement between the National Association of State 9-1-1 Administrators (NASNA) and the National 9-1-1 Implementation Coordination Office (ICO). The state plan is needed to address the strategic and operational needs of the state's PSAPs and is a prerequisite to receive federal funds and support. This new network will serve the increasing needs of all Idaho's PSAPs in meeting requirements of new communications technologies. The plan will also include a financial analysis and the potential impact on staffing. The IECC has formed a NG9-1-1 working group comprised of representatives from each county and the 6 regions in the state (same geographic boundaries used by the SIEC). The representatives from those counties/regions will help provide opinion, guidance, and input on the direction the individual counties, PSAPs, and communities would like to achieve in the Next Generation System for Idaho. The first meeting occurred on January 14<sup>th</sup>, 2015. We are currently working on some of the feedback from that meeting. This process will be ongoing with governance, financial considerations and structure.

## **Public Safety Answering Point (PSAP) Standards & Training Committee**

### **Mission Statement**

To promote professional development and standardization of public safety communications in the State of Idaho.

### **History**

The PSAP Standards & Training Committee was formed in 2010 by the Idaho Emergency Communications Commission (IECC) as an advisory committee. It is comprised of twelve members from dispatch centers across the State of Idaho. The committee brings over 279 years of combined law enforcement experience, comprised of representatives from each ISP District, coming from Police

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Departments and Sheriff's Offices of all sizes. The committee membership consists of senior dispatchers, first line supervisors, managers, and directors with a variety of backgrounds from career dispatchers to commissioned officers. Additionally, it has a representative that sits on the IECC. The committee has contacted, and continues to contact, each agency in the state using surveys and round table discussions in order to ascertain what the committee can do to improve and enhance dispatch centers in the State of Idaho.

### **2015 Members**

Idaho State Police & IECC  
 City of Pocatello P.D.  
 Fremont County S.O.  
 WHITCOM 9-1-1\*\*\*  
 Bingham County S.O.  
 Cassia County S.O.  
 Canyon County S.O.  
 Idaho State Police  
 Idaho State Police  
 Lewiston P.D.  
 Madison County S.O.  
 City of Nampa P.D.  
 City of Post Falls P.D.  
 Valley County S.O.

Lt. Kevin Haight - Chairman  
 Donielle Whitney - Vice Chair  
 Anna Pearson - Secretary  
 Wendy Berrett - Treasurer  
 Erin Hidalgo  
 DeAnn Taylor  
 Roxanne Wade  
 Trisha Marosi  
 DeLisa Orren – ex-officio  
 Cindy Felton  
 Capt. Bruce Bowler  
 Carmen Boeger  
 Charlene Holbrook  
 Kelly Copperi

\*\*\* (WHITCOM 9-1-1 serves Moscow Police Department, Moscow Rural Fire and EMS, and Nez Perce Tribe, in addition to Whitman and Asotin Counties in Washington State.)

### **PSAP Standards & Training Committee Objective**

The primary objective of the PSAP Standards & Training Committee is to define, create, and implement standardized training and education, as well as professional development to dispatchers and PSAPs in the State of Idaho.

### **2015 PSAP Standards & Training Committee Goals**

1. Prepare and implement the 4<sup>th</sup> Annual PSAP Seminar.

This goal was completed during October 20-21, 2015. The 4th Annual PSAP Seminar was held at a new-to-us venue in the convention center of the Wyndham Garden Boise Airport Hotel, in Boise, ID. The new venue allowed vendors and attendees more space and greater comfort for the duration of the event. Using a seminar format, the committee assisted in serving 129 emergency response attendees from throughout the State. These participants represented 40 different city, county, and state dispatch centers, Idaho communities and citizens. Attendees had the opportunity to earn up to 16 POST training hours by attending each available session of the seminar. Most participants were able to take advantage of attending all eight training sessions. For students unable to

attend all sessions on both days, the option of attending only the sessions that fit into their schedule was made available. A total of 1778 POST training hours were earned at no training cost to any attending agencies.

Mike Kralicek opened the first day of the seminar as a keynote speaker. Mike was a Coeur d'Alene Police Department officer who suffered a near fatal debilitating injury in the line of duty. After being shot in the face with a .357 Magnum, Mike was in a coma for several weeks and awoke as a quadriplegic. Not only was Mike's message inspirational and motivational, he shared practical lessons to help public servants be better prepared for overcoming adversity.

Sgt. Jamie Burns and Officer Brad Childers, of Nampa Police Department, closed the first day of the seminar with the topic of Emotional Survival for the First Responder. Both of these fine officers have been involved in critical incidents resulting in each them being shot in the line of duty. They shared their personal accounts of these incidents, promoting a greater sense of awareness of the harsh realities of the dangers to the law enforcement profession. Their presentations also provided the opportunity to celebrate the lives of two men who not only survived, but defeated those wishing them harm by sharing a message of hope and encouragement with others in the profession.

Ron Price, founder and CEO of the global leadership firm Price and Associates, opened the second day of the seminar. Mr. Price shared a message titled "The Three Dimensions of Leadership," and walked the attendees through a self-assessment of their influence in each dimension, as well as providing practical ideas to increase their impact as leaders in their organizations.

Bryan Taylor, Canyon County Prosecuting Attorney, teamed with Canyon County Deputy Prosecutors Dallin Creswell, Ruth Coose, and Josh Van Sweatingen providing scenario based training. Attendees participated in mock trial situations, with the presenters representing a variety of the attorney personality types a person could encounter when called to testify.

Between the keynote and closing speakers, the seminar highlighted each day with the following courses:

AMBER Alert Training, taught by Gus Paidousis. Mr. Paidousis was a police officer for 31 years before his one-day retirement in May of 2013, at which time he began the position he currently holds as Chief of Security for Knox County Schools in Knoxville, TN. In 2003, Mr. Paidousis developed and implemented the East Tennessee Regional AMBER Alert Plan, and has been active on a national level with issues relating to AMBER Alerts since that time. Mr. Paidousis shared valuable information

on Idaho's AMBER Alert plan, as well as highlighting startling statistics that drove home how critical every minute that passes is during a child abduction situation.

Security Threat Groups was taught by Nicole Fraser from the Idaho Department of Corrections. This block of instruction gave students a basic understanding of the security threat groups and gangs that operate within the Idaho Department of Corrections and the role correctional staff play in identifying, documenting, and tracking these offenders from the facilities to the community.

Blue Courage – The Heart & Mind of the Guardian, taught by Victor McCraw, Idaho POST Director. Blue Courage is a way of being. It is a philosophy that inspires one to embody the noblest of character and unquestioned devotion. It is to flourish in all aspects of life, to act with practical wisdom, to exude vitality, and to hearten human connections. Director McCraw presented this philosophy with words that all listeners could take home and apply to all areas of their lives.

What To Do When You Receive a Subpoena, taught by Canyon County Prosecuting Attorney and IECC commissioner Bryan Taylor. This class provided instruction on how to testify in court, and provided a prelude to the mock trial scenarios presented at the end of the second day.

2. Provide quarterly training opportunities for dispatchers, to be presented in various areas of the state. This goal was accomplished during the first and second quarters with the training listed below:

Quarter 1: "We ALL Make It Home" presented by Sgt. Jason Cantrell from Nampa Police Department. This course focused on workplace safety and awareness for all Law Enforcement employees, especially those not normally in a job function as a "trained observer."

Post Falls	64 Students
Moscow	48 Students
Nampa	73 Students
Twin Falls	28 Students
<u>Blackfoot</u>	<u>82 Students</u>
Total	295 Students = 1180 POST Training Hours

Quarter 2: "Ethics" presented by Lt. Kevin Haight from the Idaho State Police. This course reminded all students of the importance of all that we do and say, both on and off duty. The lessons taught were reminders that have potential to save careers.

Post Falls	27 Students
Lewiston	36 Students
Nampa	38 Students



Twin Falls	27 Students
Pocatello	9 Students
Blackfoot	30 Students
Total	167 Students = 668 POST Training Hours

Quarter 3: Due to instructor scheduling conflicts, this was postponed until 2016.

Quarter 4: Training was provided through the 4<sup>th</sup> Annual PSAP Seminar.

3. Collaboration with the POST council, Idaho Sheriff's Association (ISA), Idaho Chiefs of Police Association (ICOPA), the IECC, legislative members, and other stakeholders in the adoption of dispatcher training certification standards and hiring requirements for the state of Idaho. This goal was accomplished, but has not reached its completion. On February 25, 2015, Lt. Haight hosted the first stakeholders meeting for the topic of mandatory dispatcher certification in the State of Idaho. This meeting was held at the POST Building, Classroom A, in Meridian, ID. There were approximately thirty attendees who openly shared thoughts, opinions, ideas, and concerns. Since that time, Lt. Haight has traveled statewide and shared the objective with multiple groups, engaged the POST training sub-committee, and participated in multiple conference calls with key stakeholders. This will be an ongoing topic throughout 2016. On December 7, 2015, Lt. Haight will be making a presentation to the attending membership of both the ICOPA and ISA during the joint meeting at the Grove Hotel, in Boise.
4. Continued collaboration with the POST council in the development / updating of dispatch materials for the online / long-distance eLearning Portal (<https://post.idaho.gov/eLearning/>.) This goal was accomplished with the completion by POST Training Coordinator Joe Whilden of the conversion of the "Entry Level Emergency Communications Training Manual" created by the PSAP Standards & Training Committee to an online training course. Mr. Whilden continues to work out the details of how this will be disseminated and presented to students throughout the state.

### **Additional Accomplishments**

The PSAP Standards & Training Committee maintained its website found at <http://bhs.idaho.gov/Pages/ECC/PSAP.aspx> through the assistance of Idaho Bureau of Homeland Security staff. The committee is responsible for providing current information relevant to its activities and actions, as well as valuable resource information, for the public and dispatchers across all of Idaho.

### **2016 PSAP Standards & Training Committee Goals**

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1. Prepare and implement the 5th Annual PSAP Seminar.
2. Provide quarterly training opportunities for dispatchers, to be presented in various areas of the state.
3. Continued collaboration with the POST council, Idaho Sheriff's Association (ISA), Idaho Chiefs of Police Association (ICOPA), the IECC, legislative members, and other stakeholders in the adoption of dispatcher training certification standards and hiring requirements for the state of Idaho.

- **National Representation and Associations**

The E9-1-1 Program Manager, Craig Logan, who is an employee of the Commission, represented the Commission at the 2015 National Emergency Number Association Conference ("NENA") and one (1) National Association of State Administrators Conference ("NASNA"). Mr. Logan also conducted thirty one (31) 9-1-1 PSAP visits throughout the state to assist 9-1-1 administrators with technical issues and introductions to new role.

**APPENDICES**

Appendix A	Final Fiscal Year 2015 Budget
Appendix B	Fiscal Year 2016 Budget
Appendix C	2008 Status of Service Map
Appendix D	2009 Status of Service Map
Appendix E	2010 Status of Service Map
Appendix F	2011 Status of Service Map
Appendix G	2012 Status of Service Map
Appendix H	2013 Status of Service Map
Appendix I	2014 Status of Service Map
Appendix J	2015 Status of Service Map
Appendix K	List of Counties Adopting the Enhanced Grant Fee
Appendix L	2014 Enhanced Grant Fee Status Map
Appendix M	Legislative Authority

**Appendix A**  
**Final Fiscal Year 2015 Budget**

**E911 EMERGENCY COMMUNICATIONS COMMISSION**  
**2015 Expenses**  
**For the Month Ending**  
**September 30, 2015**

DESCRIPTION	FY 2015 Budget	FY 2015 Expenses
<b>COMMISSION AND MEETING EXPENSES</b>		
Meeting Expenses	3,000	48
In-State Travel	8,000	8,145
<b>ADMINISTRATIVE EXPENSES</b>		
E911 Project Manager Salary/Benefits	95,000	95,986
GRANT ASSISTANT PART TIME (lte) NO benefits	26,500	25,784
GRANT ASSISTANT Office Equipment/Supplies	500	292
GRANT ASSISTANT Telephone	500	719
GRANT ASSISTANT Fuel	1,000	148
GRANT ASSISTANT Lodging and Per Diem	5,000	4,376
Administrative Support	10,000	10,000
Office Supplies	1,000	63
Office Equipment	1,000	-
Telephone	1,000	629
Photocopying	1,100	614
Postage	500	98
Administrative Rules	200	360
Capital Improvements	0	-
Awards	400	230
Professional Membership fees	600	529
Statewide Cost Allocation Plan	5,000	53
<b>CONTRACTS</b>		
PSAP Web Maintenance	1,000	45
Consultant	50,000	20,593
<b>IN-STATE TRAVEL</b>		
Fuel	4,000	1,107

Vehicle maintenance	1,000	-
Lodging and per diem	5,000	1,136
IN-STATE TRAVEL PSAP COMMITTEE		
Training	6,000	8,608
Travel, lodging and per diem	15,000	14,801
OUT OF STATE TRAVEL		
NENA, NASNA & APCO CONFERENCES	6,000	10,149
	248,300	204,511
Contingency Funds	0	-
TOTAL ALLOCATED BUDGET	248,300	204,511

## Appendix B

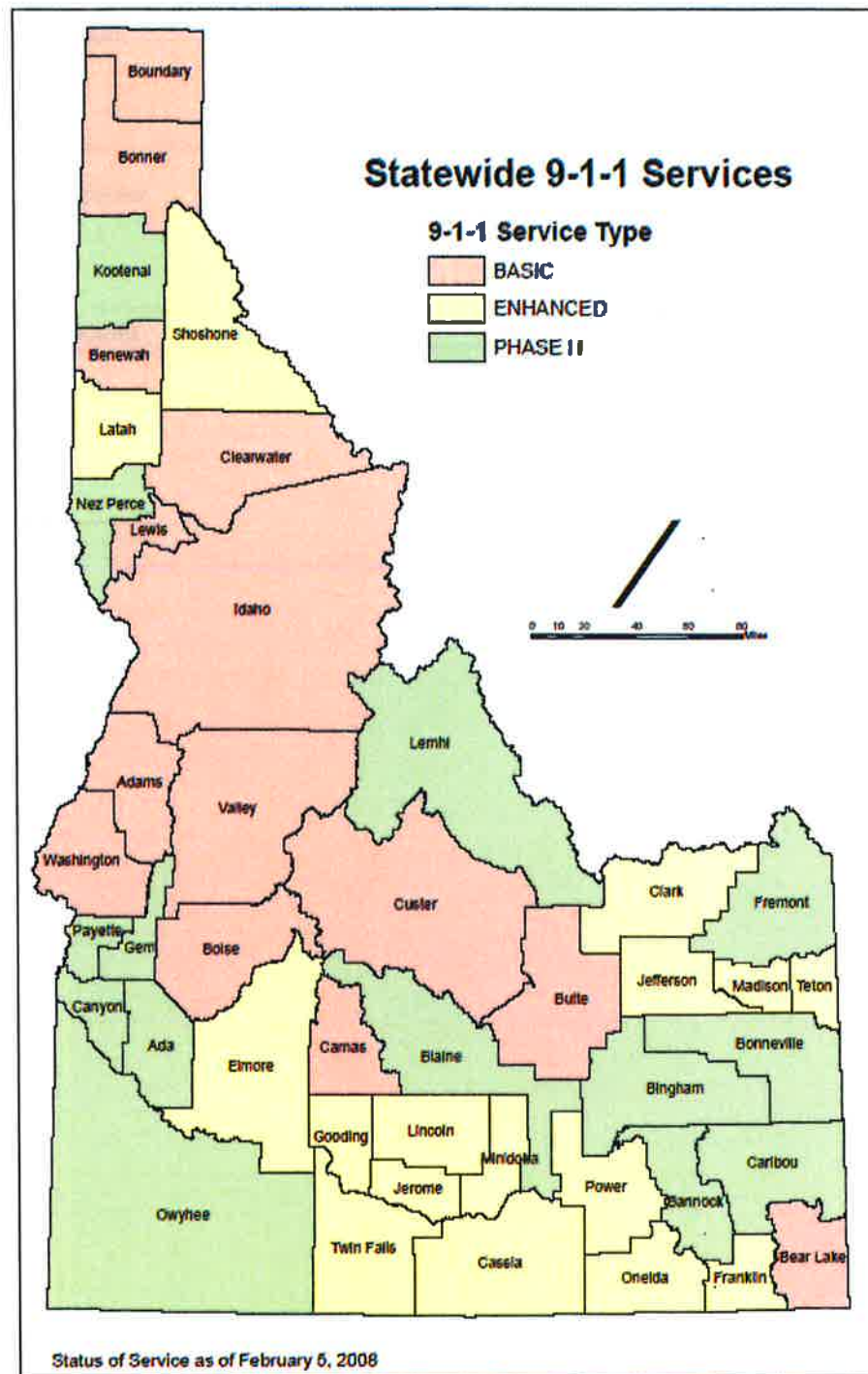
**E911 EMERGENCY COMMUNICATIONS COMMISSION  
FY 2016 Budget Worksheet**

<b>DESCRIPTION</b>	<b>FY 2015 Budget</b>	<b>Draft FY 2016 Budget</b>
<b>COMMISSION AND MEETING EXPENSES</b>		
Meeting Expenses	3,000	3,000
In-State Travel	8,000	8,000
<b>ADMINISTRATIVE EXPENSES</b>		
<i>E911 Project Manager Salary/ Benefits</i>	95,000	98,000
<i>GRANT ASSISTANT PART TIME (lte) NO benefits</i>	26,500	26,500
<i>GRANT ASSISTANT Office Equipment/ Supplies</i>	500	500
<i>GRANT ASSISTANT Telephone</i>	500	500
<i>GRANT ASSISTANT Fuel</i>	1,000	1,000
<i>GRANT ASSISTANT Lodging and Per Diem</i>	5,000	5,000
Administrative Support	10,000	10,000
Office Supplies	1,000	1,000
Office Equipment	1,000	1,000
Telephone	1,000	1,000
Photocopying	1,100	700
Postage	500	500
Administrative Rules	200	200
Capital Improvements	0	-
Awards	400	400
Professional Membership fees	600	600
Statewide Cost Allocation Plan	5,000	5,000
<b>CONTRACTS</b>		
PSAP Web Maintenance	1,000	500
Consultant	50,000	50,000
<b>IN-STATE TRAVEL</b>		
Fuel	4,000	4,000
Vehicle maintenance	1,000	1,000
Lodging and per diem	5,000	5,000
<b>IN-STATE TRAVEL PSAP COMMITTEE</b>		

Training	6,000	6,000
Travel, lodging and per diem	15,000	15,000
<b>OUT OF STATE TRAVEL</b>		
NENA, NASNA & APCO CONFERENCES	6,000	8,000
	248,300	252,400
Contingency Funds	0	0
<b>TOTAL ALLOCATED BUDGET</b>	248,300	252,400

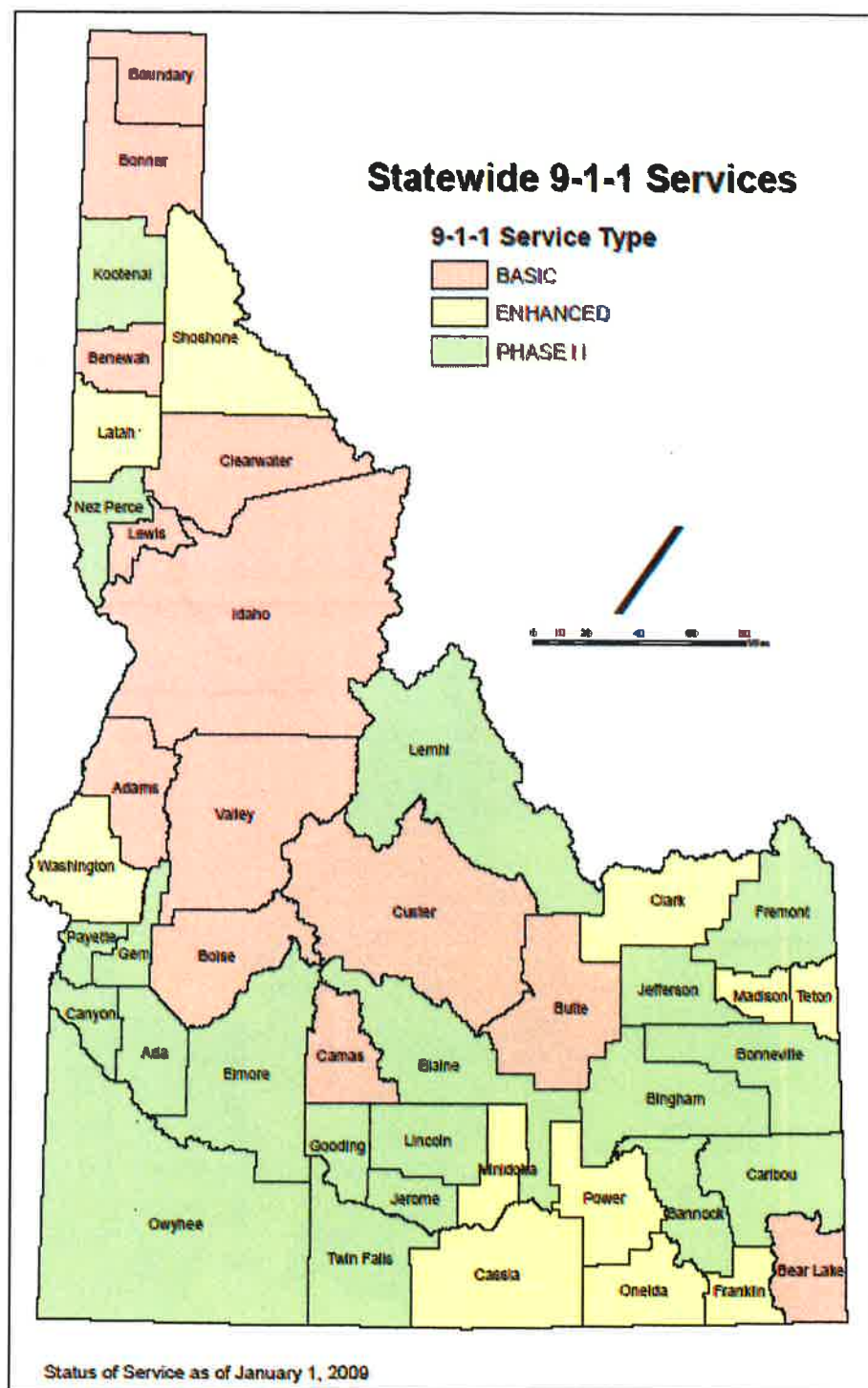


## Appendix C 2008 Status of 9-1-1 Service Map



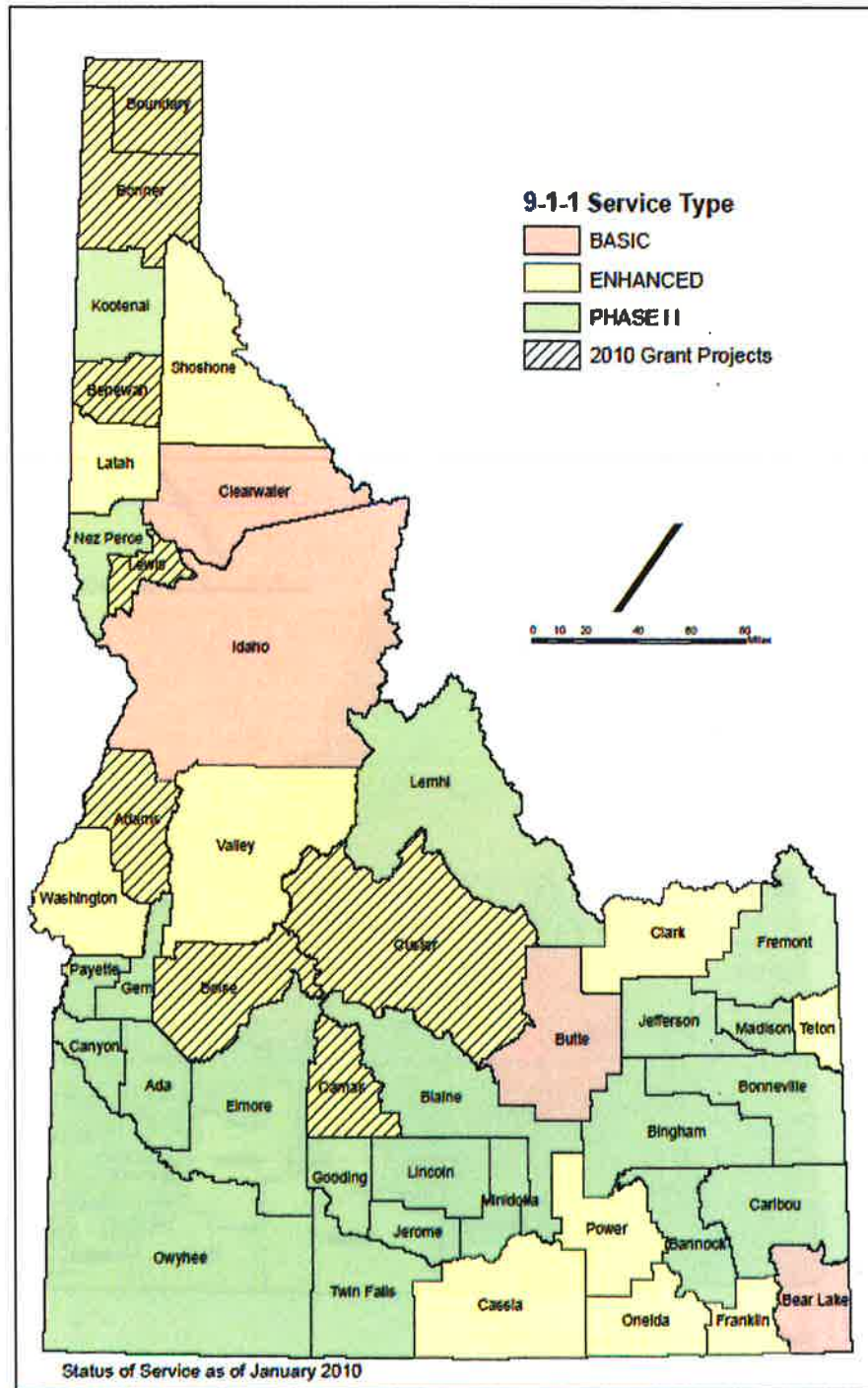
## Appendix D

## 2009 Status of 9-1-1 Service Map



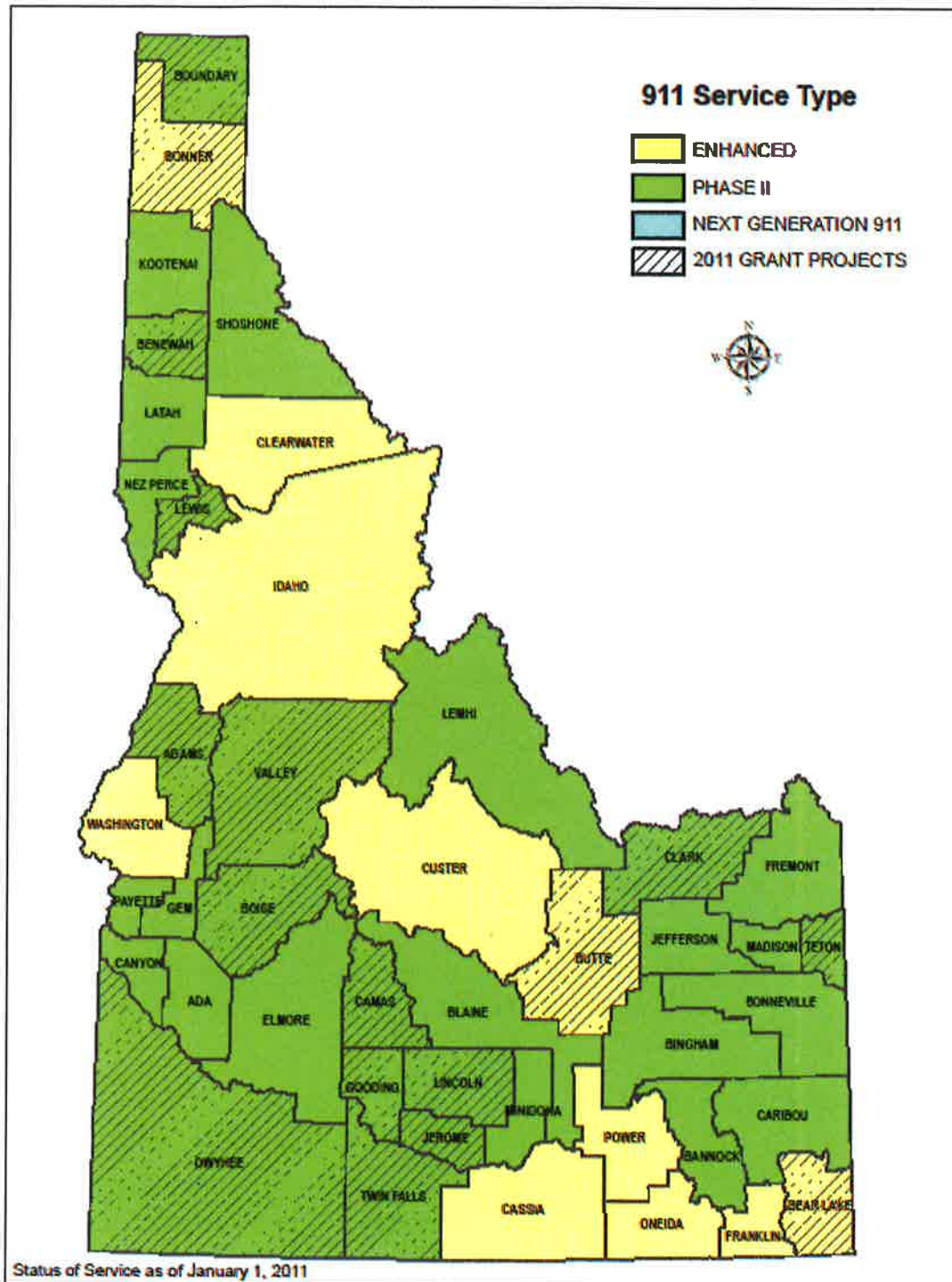
## Appendix E

### 2010 Status of 9-1-1 Service Map



## Appendix F

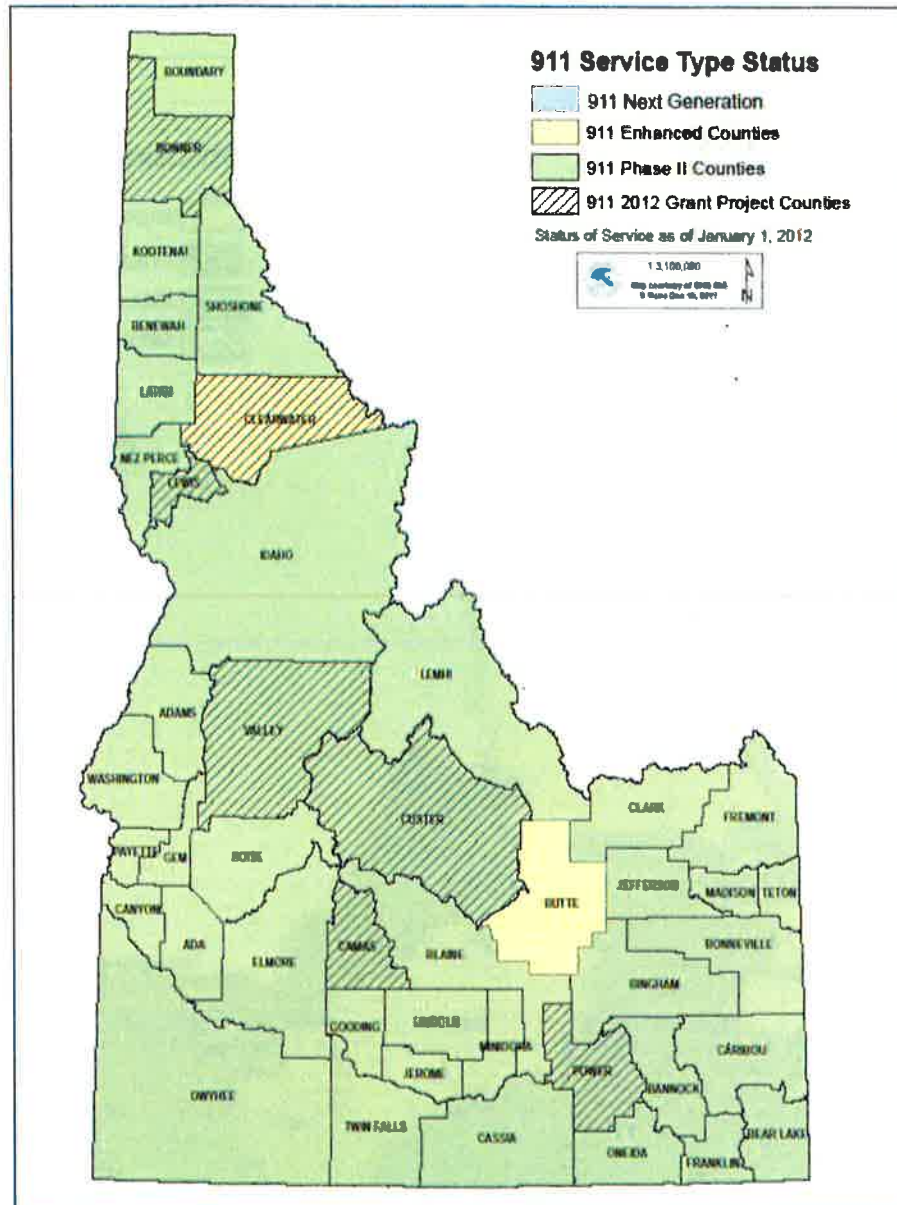
### 2011 Status of 9-1-1 Service Map



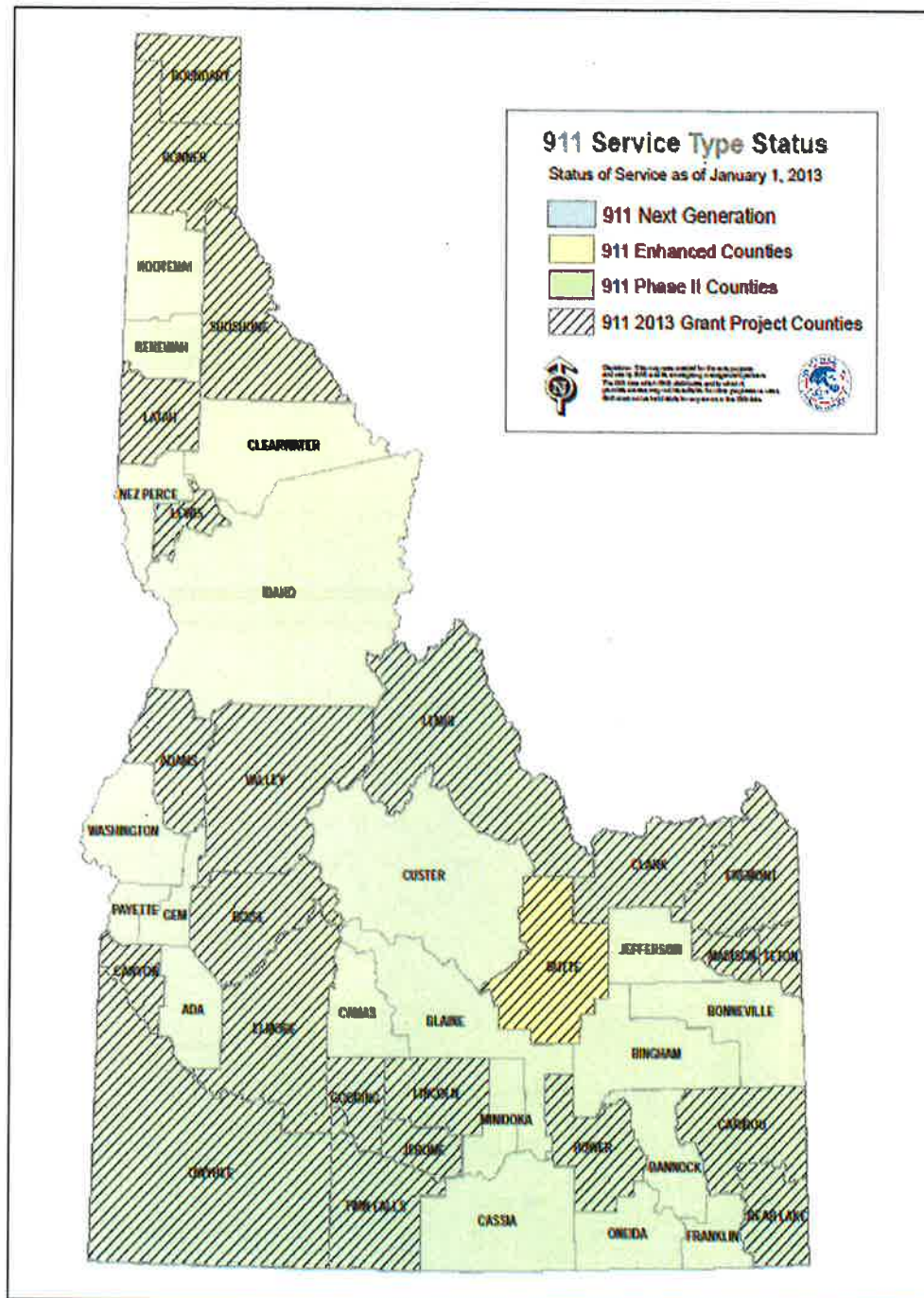
## Appendix G



## 2012 Status of 9-1-1 Service Map

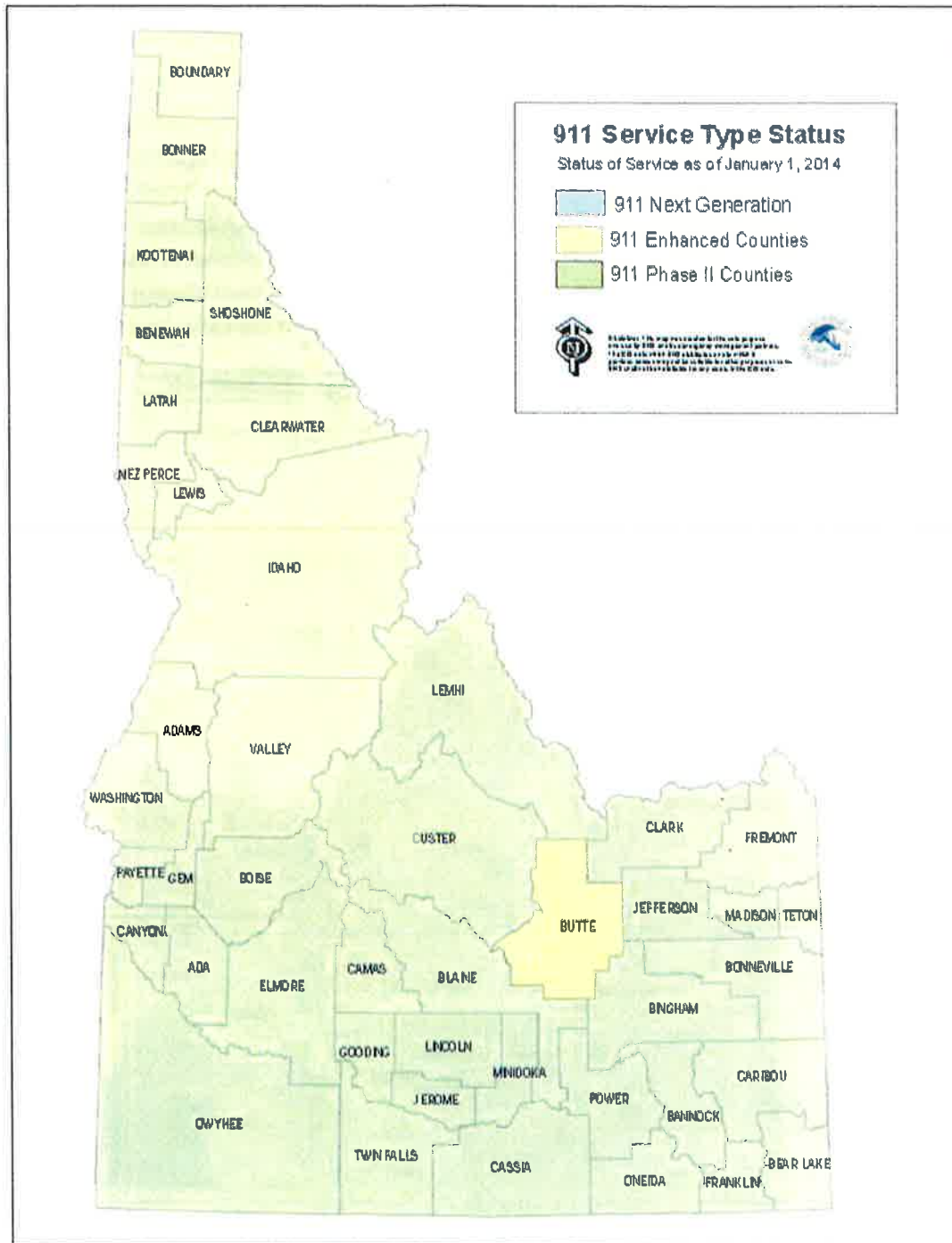


## Appendix H 2013 Status of 9-1-1 ServiceMap



## Appendix I

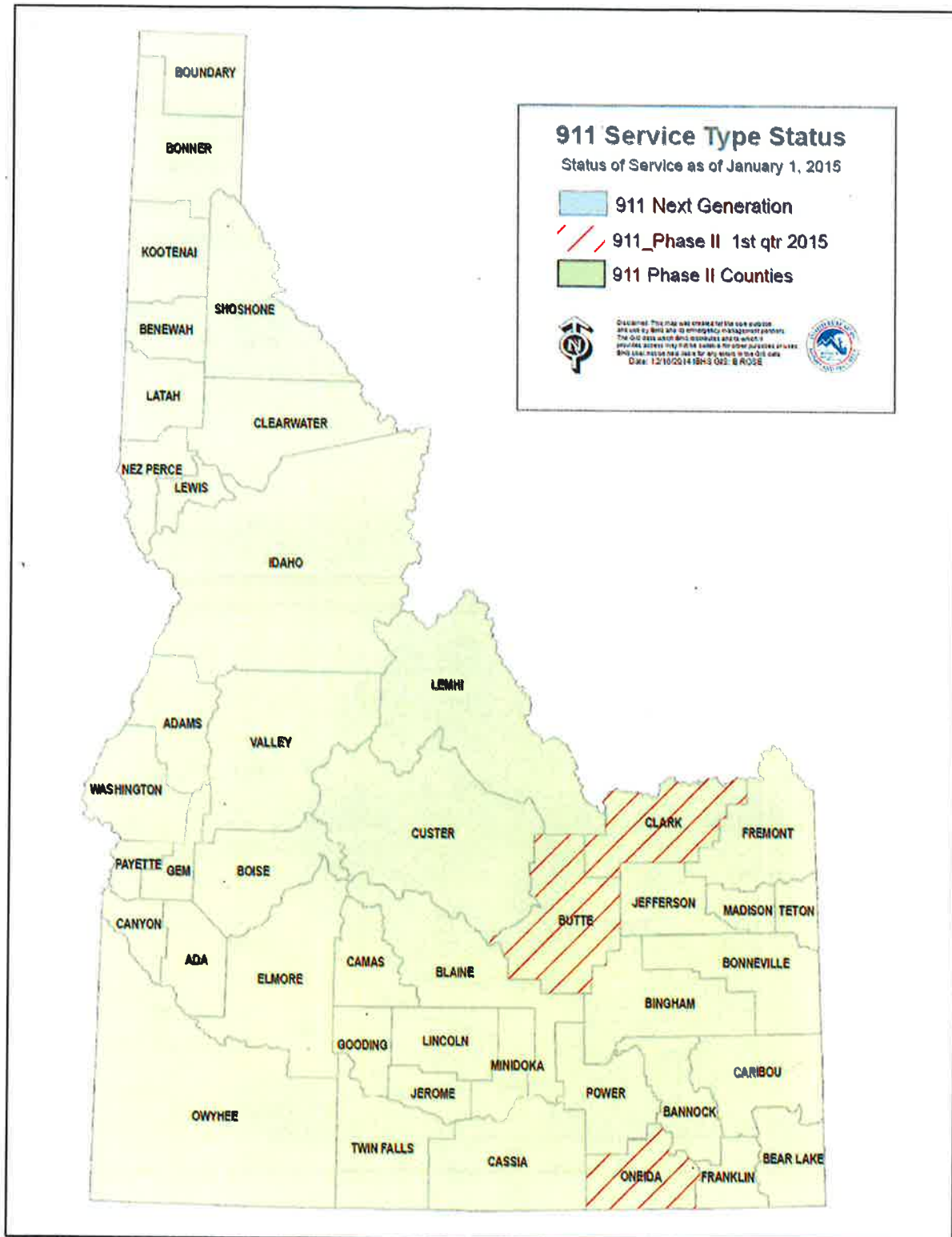
## 2014 Status of Service Map



## Appendix J

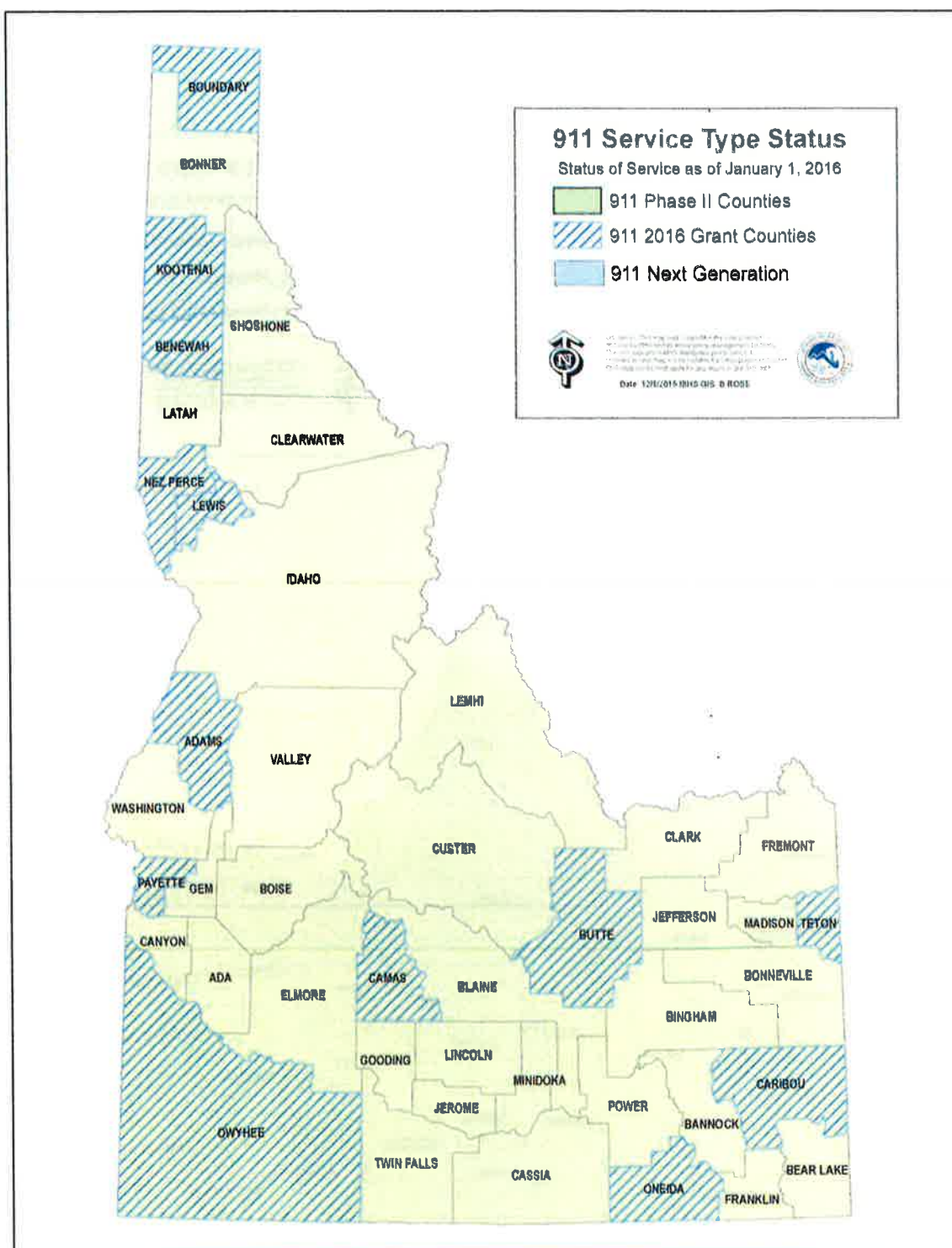
### 2015 Status of Service Map





## Appendix K

### 2016 Status of Service Map



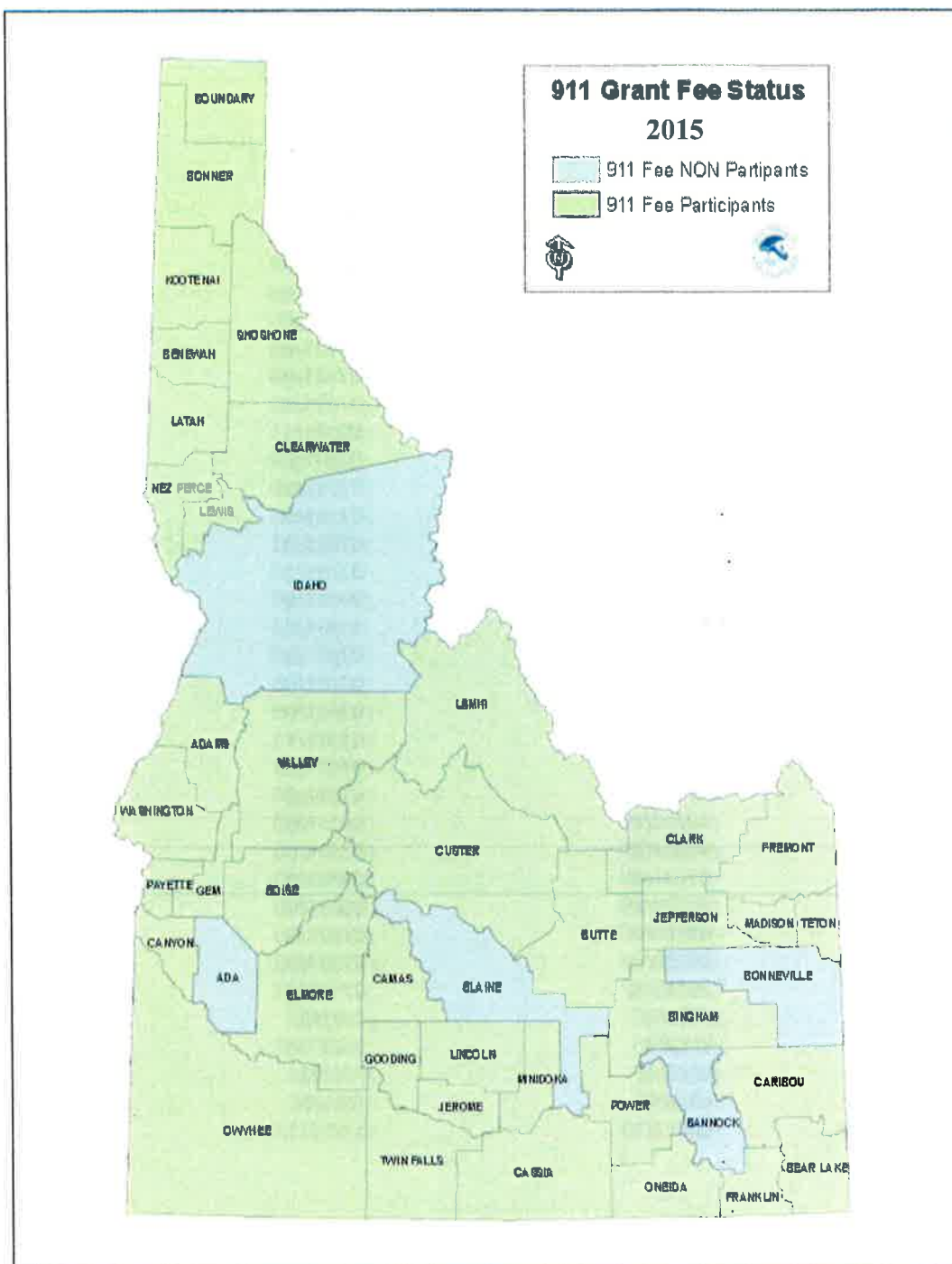
### Appendix L List of Counties Adopting the Enhanced Grant Fee

In order to collect the Grant Fee, each Board of County Commissioners must pass a resolution to begin collecting the Grant Fee. We will update this website each time the Commission is informed that a county has passed a resolution adopting the Grant Fee.

<u>Counties</u>	<u>Date of Resolution</u>	<u>Effective Date</u>
Adams	06/23/08	07/01/08
Bear Lake	08/04/08	09/01/08
Benewah	06/30/08	07/01/08
Bingham	06/18/08	07/01/08
Boise	06/16/08	07/01/08
Bonner	06/24/08	07/01/08
Boundary	12/23/08	02/01/09
Butte	09/22/08	12/01/08
Camas	02/09/09	04/01/09
Canyon	06/25/08	07/01/08
Caribou	06/23/08	07/01/08
Cassia	06/23/08	07/01/08
Clark	06/09/08	07/01/08
Clear Water	07/18/11	09/01/11
Custer	12/22/08	02/01/09
Elmore	06/23/08	07/01/08
Franklin	06/23/08	07/01/08
Fremont	06/16/08	07/01/08
Gem	05/20/13	07/01/13
Gooding	07/28/08	09/01/08
Jerome	09/15/08	11/01/08
Jefferson	06/23/08	07/01/08
Kootenai	07/15/08	08/01/08
Latah	06/18/08	09/01/08
Lemhi	10/27/10	01/01/11
Lewis	12/01/08	01/01/09
Lincoln	11/10/08	01/01/09
Madison	02/23/09	04/01/09
Minidoka	06/23/08	07/01/08
Nez Perce	07/07/08	08/01/08
Oneida	06/24/08	08/01/08
Owyhee	06/16/08	07/01/08
Payette	06/30/08	07/01/08
Power	06/23/09	07/01/08
Shoshone	6/25/08	7/01/08
Teton	8/25/08	10/01/08
Twin Falls	6/25/08	7/01/08
Valley	6/09/08	7/01/08
Washington	09/11/13	11/01/13

## Appendix M

### 2014 Enhanced Grant Fee Status Map



## Appendix N

### Legislative Authority

After almost 20 years since the original enactment of the Emergency Communications Act, there is still an increasing need in many Idaho communities. In amendments to the Act in 2004, 2007 and again in 2008, the Legislature found:

- (a) Since the original enactment of the emergency communications act in 1988, many of Idaho's communities have found that they are lacking in the resources to fully fund emergency communications systems at the local level;
- (b) Changes in technology and the rapid growth of communications media have demonstrated that financing such systems solely by a line charge on subscribers to wire line services does not reflect utilization of emergency communications systems by subscribers to wireless and other forms of communications systems;
- (c) There is a need to enhance funding for the initiation and enhancement of consolidated emergency communications systems throughout the state;
- (d) Utilization of cellular telephones and voice over internet protocol (VoIP) communications to access emergency communications systems has substantially increased citizen access to emergency services while at the same time increasing demands upon the emergency response system;
- (e) In order to protect and promote the public health and safety, and to keep pace with advances in telecommunications technology and the various choices of telecommunications technology available to the public, there is a need to plan and develop a statewide coordinated policy and program to ensure that Enhanced 9-1-1 services are available to all citizens of the state and in all areas of the state.
- (f) The need to implement planning for the migration to the Next Generation 9-1-1.

Idaho Code § 31-4801 (2009).

With these directives from the Legislature, the Commission has continued to strive to fulfill its purpose and responsibilities as prescribed in Idaho Code § 31-4816. These are to:

- (1) Determine the status and operability of consolidated emergency communications systems statewide;
- (2) Determine the needs for the upgrade of consolidated emergency communications systems;
- (3) Determine the costs for the upgrades;
- (4) Recommend guidelines and standards for operation of consolidated emergency communications systems;
- (5) Recommend funding mechanisms for future implementation of upgrades;
- (6) Serve as a conduit for the future allocation of federal grant funds to support the delivery of consolidated emergency communications systems;

- (7) Report annually to the legislature of the State of Idaho on the planned expenditures for the next fiscal year, the collected revenues and moneys disbursed from the fund and the programs or projects in progress, completed or anticipated;
- (8) Enter into contracts with experts, agents, employees or consultants as may be necessary . . . ; and
- (9) Promulgate rules . . . to carry out the purposes of the Commission's duties.

Idaho Code § 31-4816.

In 2008 the Enhanced Emergency Communications Grant Fee was enacted to help fund E9-1-1, Wireless Phase I and II, and Next Generation 9-1-1 throughout Idaho.

#### §31-4819 Enhanced Emergency Communications Grant Fee

(1) On and after July 1, 2013, there shall be an enhanced emergency communications grant fee established by virtue of authority granted by this chapter. The fee shall be twenty-five cents (25¢) per month per access or interconnected VoIP service line.

- (a) Such fee shall be authorized by resolution of a majority vote of the board of commissioners of a countywide system or by the governing board of a 911 service area.
- (b) Such fee shall be remitted to the Idaho emergency communications fund provided in section [31-4818](#)

(1), Idaho Code, on a quarterly basis by county, city or consolidated emergency communications systems. Such fee shall be dedicated for and shall be authorized for disbursement as grants to eligible entities that are operating consolidated emergency communications systems for use to achieve the purposes of this chapter.

(2) The commission, on an annual basis, shall prepare a budget allocating the grant funds available to eligible entities and the portion of the funds necessary for the continuous operation of the commission to achieve the purposes of this chapter.

(3) To be eligible for grant funds under this chapter, a county or 911 service area must be collecting the emergency communications fee in accordance with section [31-4804](#), Idaho Code, in the full amount authorized and must also be collecting the enhanced emergency communications grant fee in the full amount authorized in this subsection.

(4) If a county or 911 service area has authorized the collection of the enhanced emergency communications grant fee pursuant to this chapter, such county or 911 service area shall retain the full amount of the emergency communications fee that was set by the board of commissioners or governing board pursuant to section [31-4803](#), Idaho Code. The county or 911 service area is then also exempt from remitting to the Idaho emergency communications commission one percent (1%) of the total emergency communications fee received by the county or 911 service area as required in section [31-4818](#)(3), Idaho Code. The remaining funds from the enhanced emergency communications grant fee collected shall then be remitted by the county or 911 service area to the Idaho emergency communications commission.

**AMENDED AGENDA #1**  
**SENATE STATE AFFAIRS COMMITTEE**  
**8:00 A.M.**  
**Room WW55**  
**Friday, March 18, 2016**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
VOTE ON GUBERNATORIAL APPOINTMENT:	Vote on the Gubernatorial reappointment of Paul J. Schneider to the Idaho State Racing Commission.	
GUBERNATORIAL APPOINTMENTS:	The Gubernatorial appointment of L. Daniel Cravens to the Idaho Commission on Human Rights (phone interview).	
	The Gubernatorial appointment of Grant A. Brackebusch to the Idaho Lottery Commission (phone interview).	
<a href="#">H 544</a>	RELATING TO PROHIBITED ACTS REGARDING ALCOHOL BEVERAGE LAWS applicable to standards that apply for the content of movies in certain facilities.	Representative Joe Palmer
<a href="#">H 331aa</a>	RELATING TO ALCOHOLIC BEVERAGES to prohibit the possession, use, sale and purchase of powdered alcohol.	Jeff Anderson, Idaho Liquor Division
<a href="#">S 1404</a>	RELATING TO to The Idaho Unborn Infants Dignity Act	Dave Ripley, Idaho Chooses Life

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman McKenzie  
Vice Chairman Lodge  
Sen Davis  
Sen Hill  
Sen Winder

Sen Siddoway  
Sen Lakey  
Sen Stennett  
Sen Buckner-Webb

COMMITTEE SECRETARY

Twyla Melton  
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MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Friday, March 18, 2016

**TIME:** 8:00 A.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Lodge, Senators Davis, Hill, Winder, Siddoway, Lakey, Stennett and Buckner-Webb

**ABSENT/ EXCUSED:** None

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**CONVENED:** **Chairman McKenzie** called the Senate State Affairs Committee (Committee) to order at 8:02 a.m. with a quorum present.

**VOTE ON GUBERNATORIAL APPOINTMENT:** Vote on the Gubernatorial reappointment of Paul J. Schneider to the Idaho State Racing Commission.

**MOTION:** **Senator Winder** moved to send the Gubernatorial reappointment of Paul J. Schneider to the Idaho State Racing Commission to the floor with the recommendation that he be confirmed by the Senate. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

**GUBERNATORIAL APPOINTMENT:** The Gubernatorial appointment of L. Daniel Cravens to the Idaho Commission on Human Rights (Commission) (phone interview).

**Chairman McKenzie** welcomed Mr. Cravens and asked him to provide some information on his background and how he sees his role on the Commission.

**L. Daniel Cravens** stated he is a native of Illinois; he graduated from Quincy University in Quincy, Illinois with a Bachelor of Arts degree in sociology and a minor in Political Science; he earned a Juris Doctorate in Law at Gonzaga University School of Law, Spokane, Washington, and a Master of Arts in government concentrating on political campaign management at Regent University, Virginia Beach, Virginia. He is currently completing his Doctorate of Business Administration from Argosy University in Salt Lake City, Utah with the expectation of finishing in April 2016.

**Mr. Cravens** currently works for Idaho State University as a coordinator for Bengal Solutions. Previous employment includes the *Idaho State Journal* and Idaho Department of Labor in Pocatello and GH, LLC, in West Lafayette, Indiana, as Vice President for Development. GH provides products and services for individuals with visual impairment.

**Mr. Cravens** said that Idaho government gives people like him the opportunity to serve. He said it is his desire to be engaged and interact with the community.

**Senator Davis** asked Mr. Cravens if he knew which member he replaced. Had he attended any meetings yet? Has he had an opportunity to be trained for the position relative to the time required and the duties involved? **Mr. Cravens** responded that he did not know who he was replacing and had not yet attended any meetings. He has been briefed by a current administrator at the

Commission, which included an introduction and overview of the responsibilities for the position. **Senator Davis** inquired if the time expectations could be met in light of Mr. Craven's current employment and education commitments. **Mr. Cravens** answered that he didn't see a problem. He has been assured by the Commission that if he couldn't get to Boise for meetings, they could use teleconferencing. As for his education, it is just a matter of signing the final paperwork.

**Senator Davis** asked Mr. Cravens how his background and education qualify him to serve on this Commission. What type of perspective does he bring as a new commissioner? **Mr. Cravens** stated that his experience with people with vision impairment prepares him for this position. People with disabilities are part of a protected class and so that is an expertise that he brings that is unique. His legal and government public policy education will be helpful. **Mr. Cravens** said that his background and education would help be a resource for the Commission to explore issues in more depth.

**Senator Buckner-Webb** asked what drew Mr. Cravens to this Commission. **Mr. Cravens** responded that one reason was his experience with disabilities but the other was his experience at the Department of Labor, which is the parent organization for the Commission. Those factors enticed him. This was a good area for his skill set and a good way for him to contribute.

#### **GUBERNATORIAL APPOINTMENT:**

The Gubernatorial appointment of Grant A. Brackebusch to the Idaho Lottery Commission (Lottery Commission) (phone interview).

**Chairman McKenzie** asked Mr. Brackebusch to provide some of his background as it relates to serving on the Lottery Commission and how he sees his role there. How does being a mining engineer influence his perspective?

**Grant A. Brackebusch** said he was born and raised in Kellogg, Idaho, and graduated from the University of Idaho with a degree in mining engineering. He worked on the Carlin Trend in Nevada and then returned to Idaho. He wanted to do some public service and this opportunity became available. He found it interesting, especially the funding for the public schools and the permanent building fund; he has a background in statistics. The more he learned about the lottery, the more he was interested.

**Chairman McKenzie** stated the Committee's appreciation to Mr. Brackebusch for his willingness to serve on the Lottery Commission.

#### **H 544**

RELATING TO PROHIBITED ACTS REGARDING ALCOHOL BEVERAGE LAWS applicable to standards that apply for the content of movies in certain facilities.

**Representative Joe Palmer**, District 20, drew attention to the language that is being stricken on page 1, lines 35-42, and page 2, lines 1-2, stating that the intent is not to weaken current statute. This is a segment that may be unconstitutional. This specific code provision prohibits liquor license holders from showing films that contain some type of sexual content. He said the language "pushes" on the borders of the First Amendment. Law enforcement cannot enforce current Idaho law because of federal requirements. He indicated that professionals on this subject matter are in the room and they will be able to answer any questions. **Representative Palmer** introduced Russ Wheatley, Idaho State Police, to further explain the bill.

**Mr. Wheatley** explained that **H 544** is attempting to bring consistency to existing Idaho codes. Under Idaho Code § 23-944 subsection (7), the law deals with movie theaters and the showing of specific films. This section defaults to the obscenity codes under Title 18, Chapter 41, which contain specific standards of

what can and cannot be shown in a movie theater. Subsection (7) deals with beer and wine licensees and **H 544** is trying to apply the same standard to liquor license holders.

**Mr. Wheatley** said that **H 544** was drafted by Stephanie Altig, Deputy Attorney General, and has been reviewed by the Attorney General's office, the Idaho State Police, Alcohol Beverage Control as well as by industry.

**Senator Winder** recalled that the intent of the original law was to regulate XXX movie theaters versus a theater open to the general public that might run a restricted, "R", or "GP" type of movie. **Mr. Wheatley** concurred. That standard remains; this bill does not allow pornography in theaters.

**Senator Davis** asked Jeremy Chou from Givens Pursley, if this problem couldn't be solved by prohibiting the sale of any alcohol in all movie theaters. **Mr. Chou** said that would be one way. **Senator Davis** asked, why is **H 544** being considered rather than that option. **Mr. Chou** said the option Senator Davis proposed opens the door to many other issues, such as the impact on Supreme Court cases that are in effect and the ability to do commerce and business, and it would affect other movie theaters; he named a few. **Senator Davis** asked if the laws that are being dealt with here are a result of previous legislation allowing beer and wine in a movie theater. **Mr. Chou** said the original legislation involved a grandfathering of several movie theaters that were serving beer and wine.

**Senator Davis** asked when the language that is causing the trouble was put in Idaho Code. **Mr. Chou** answered that the original language occurred in 1977 with some amendments in 2000. That early language dealt with XXX establishments.

**Chairman McKenzie** asked if, under controlling interpretations of the First Amendment, is the language that is in code now constitutional or is it in violation of the First Amendment? **Mr. Chou** said it is their legal opinion that the statutory provision as it currently exists is unconstitutional. There is a California Ninth Circuit case from 2000, LSO vs Stroe, that addressed the exact same language and found that it was unconstitutional under the First Amendment. A Supreme Court case from Delaware, 44 Liquor Mar, was cited; the ruling was that the states have the ability to regulate First Amendment conduct based on their alcohol regulations. The Delaware holding was the reason the Ninth Circuit overturned the California case.

**Senator Winder** asked **Mr. Chou** to explain the Meridian Cinemas operation regarding the restaurant and its licensing to serve alcohol, and how the theater separates the area where alcohol is served from the general public. **Mr. Chou** disclosed that he represents the Meridian Cinemas in the Village at Meridian and provided that description. He described the restaurant, movie theater and the separation of the area where food and alcoholic beverages are sold. Mainstream movies are shown and there is no intent to do otherwise.

**Senator Winder** said that this business operation is in his district and he has been involved with this issue since the theater was first getting its license to serve alcohol. Senator Winder and his wife attend movies there but don't sit in that section; when entering the theater, that section is not noticeable. This owner does a great job managing the operation and providing proper separation.

**MOTION:**

**Senator Winder** moved to send **H 544** to the floor with a **do pass** recommendation. **Senator Lakey** seconded the motion.

**Senator Davis** reminded the Committee that there was another alternative, which would be to ban the consumption of alcohol in all movie theaters. In the past, the Legislature, when faced with this issue, found that there was a commercial reason for allowing this type of operation, Meridian Cinemas does a good job.

Other theaters do not do such a good job of maintaining a separate section for alcohol beverage service. **Senator Davis** agrees that Idaho needs to do something but there are two options and this bill is the one before the Committee. The alternative is available if the Committee wants to pursue it and that option needed to be stated.

The motion carried by **voice vote**.

## **H 331AA**

RELATING TO ALCOHOLIC BEVERAGES to prohibit the possession, use, sale and purchase of powdered alcohol.

**Jeff Anderson**, Director, Idaho State Liquor Division, explained that the purpose of H 331aa is to bar the possession, use, sale and purchase of powdered alcohol for beverage purposes. He said that powdered alcohol is considered to be prone to abuse. Twenty-nine states have enacted statutory prohibitions that have been signed into law, with more considering it. The bill amends Idaho Code § 23-616; this statute banning vaporized alcohol was considered a logical place to address powdered alcohol. This bill is supported by law enforcement, the prevention community and industry. The Idaho State Police Alcohol Beverage Control was consulted throughout the bill-drafting process. The House amendment was the addition on page 1, lines 18 and 19, recognizing exemptions in Idaho Code § 23-504 for alcoholic non-beverages used in specific applications not related to beverage alcohol. The change on line 37 of page 1 allows judges more flexibility in sentencing.

**Mr. Anderson** continued his explanation of why this bill is necessary. He discussed how the dry weight converts to liquid: the label on powdered alcohol states that 55 percent alcohol by weight converts to 70 percent alcohol by volume. Concerns exist about the unfamiliarity with the metric system, the misuse by adults and minors, improper mixing with less than the prescribed amount of water, mixing with other liquors and the ease to conceal that will lead to illicit use where alcohol is prohibited. No one wants to see this product in the hands of children.

**Senator Lakey** asked Mr. Anderson if there was the potential of having a higher concentration of alcohol if the powder itself is consumed or is mixed with less water. **Mr. Anderson** answered that the branded product "Palcohol" is intended to be mixed with 200 ml of water; anything less than that would have a higher concentration of alcohol. The manufacturer has been clear that the intended use is for mixing with another liquid.

**Senator Buckner-Webb** inquired about the availability of this product. **Mr. Anderson** responded that at this time, "Palcohol" has not been introduced into the marketplace because more than 29 states have been debating its legality. This particular brand could be regulated by the Liquor Division, but it is possible that another product with less volume could end up on a convenience store shelf.

**Senator Lakey** noted that there are other potential commercial and industrial uses for this product. Would this legislation address that type of use? **Mr. Anderson** said this legislation would exclude those uses which include proprietary medicines, tinctures, food products and perfumes. **Senator Lakey** commented on the scope of the exception and that it is somewhat limited. **Mr. Anderson** agreed.

## **TESTIMONY:**

**Tyler Mallard**, Government Affairs Liaison with Risch Pisca representing the Idaho Beer and Wine Distributors Association, testified in support of **H 331aa**. Powdered alcohol is different than the beverages that are currently available in Idaho. **Mr. Mallard** described the ease in which powdered alcohol can be converted into hard liquor and that it is easily accessible to children. When added to other alcoholic beverages, it could create a potential lethal drink. The risk is not worth the reward.

**MOTION:**

**Senator Hill** moved to send **H 331aa** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

**S 1404**

RELATING TO The Idaho Unborn Infants Dignity Act.

**Senator Cliff Bayer**, District 21, remarked that he is proud to be the Senate sponsor of **S 1404** because it sends a powerful message to our culture and the scientific community. A U.S. Congressional committee recently held hearings on the ethics of using tissue from aborted babies in medical research; several nationally prominent ethicists and researchers testified. One of those researchers, Dr. Kathleen Schmainda, Professor of Radiology and Biophysics at the Medical College of Wisconsin, answered three key claims that proponents of aborted tissue-based research often make to defend the practice. **Senator Bayer** read those three claims and her refuting statements from in her written testimony (see attachment 1).

**Senator Bayer** pointed out that **S 1404** allows for the medical donation of deceased pre-born babies in cases of miscarriage and stillbirth.

**Senator Bayer** continued his explanation about the validity and necessity of passing this legislation. Ethical standards on proper medical research appear to be eroding; researchers don't want to compromise core values to advance medical science or even keep a job. He said he wants Idaho to become a place where researchers will never have to make a choice between a career and their values. **Senator Bayer** asked David Ripley to continue with the explanation of **S 1404**.

**David Ripley**, Executive Director, Idaho Chooses Life, referred to last summer's news reports about the development of a business involving the harvesting and trafficking of organs from aborted babies in the name of "science" and "profit." Idaho Chooses Life launched a campaign for an investigation to see if these activities were happening in Idaho. In response to an invitation from Governor Otter to review current Idaho law to ensure that those types of practices would not be allowed here, Idaho Chooses Life began the review, which showed that organs and tissue from aborted babies could be legally harvested and marketed for resale so long as the abortionist did not "profit" from that transaction; Idaho law is much like federal law.

**Mr. Ripley** stated that it is the purpose of this legislation to close those loopholes so that trafficking in aborted baby parts cannot legally happen in the State. **S 1404** does five things:

- It makes it clear that medical professionals need to inform parents who lose a baby to miscarriage or stillbirth that they have a right to direct the final disposition of their baby's remains.
- It provides for a Certificate of Miscarriage if a mother chooses to make application.
- It prohibits the harvesting of tissue and organs from aborted babies.
- It prohibits public universities in Idaho from engaging in research projects using organs and tissue from aborted babies.
- It provides for the donation of tissue and organs in cases of stillbirth or miscarriage, but only with informed consent.

This legislation does not restrict abortion or access to abortion, but it is decidedly pro-life. It affirms the dignity of each human being by protecting the pre-born child from becoming a mere commodity. **Mr. Ripley** believes this legislation will help save babies from future abortions.

**Mr. Ripley** requested that three letters in support of the legislation be introduced: 1.) a letter from pastors around the state (see attachment 2a); 2.) a letter from the director of the Christian Medical and Dental Association, Dr. David Stevens (see attachment 2b); and 3.) a letter from Americans United for Life (AUL) (see attachment 2c).

**Mr. Ripley** pointed out that the AUL says that five states – Indiana, North Dakota, Ohio, Oklahoma and South Dakota – have laws in place prohibiting the use of fetal tissue obtained from abortions for medical experimentation. Six other states are currently considering legislation similar to **S 1404**, and ten states are reviewing bills to tighten restrictions or make it illegal to participate in these activities. **Mr. Ripley** concluded with an excerpt from a speech to the nation given by President George W. Bush in August of 2001: "As the genius of science extends the horizons of what we *can* do, we increasingly confront the complex questions about what we *should* do."

**Senator Stennett** referred to page 1, lines 22 and 23. How can there be a deceased unborn infant? Isn't it necessary to be born before one can be deceased? Also, line 23 talks about "other" human beings; who is "other"? **Senator Stennett** noted that she had an opinion from the Attorney General (AG) on some of the semantics she has pointed out that aren't clear, and there were recommendations by the AG about how to make the bill more clear (see attachment 3).

**Senator Stennett** related that the bill parsed words about "stillborn" or "miscarried" compared to "abortion." This language seems to elevate aborted fetuses to the same status as deceased human beings. The difficulty with that is it has been struck down in court repeatedly. If these bill are not written properly, they will be contested and the taxpayers will pay for that litigation.

**Senator Stennett** stated her discomfort with the miscarriage certificate. She gave some examples, such as a woman who miscarries at home and comes to a provider with a previous positive pregnancy test but there is no evidence of a pregnancy. Can she get a miscarriage certificate? **Mr. Ripley** replied that it would depend upon the judgement of her physician. **Senator Stennett** asked what is required in the case of an ectopic or molar pregnancy; could an abortion make it a saved miscarriage and would they then be able to get a certificate? **Mr. Ripley** said that in the case of an abortion, a miscarriage certificate would not be given. **Senator Stennett** asked if this would be the case if an abortion was performed because the pregnancy was not viable and that was the only option for the safety of the mother? **Mr. Ripley** agreed. **Senator Stennett** asked if midwives, who often provide prenatal care, could certify a miscarriage. If not, would the woman be able to get a certificate? **Mr. Ripley** stated his belief that the answer is no.

**Senator Buckner-Webb** asked if Mr. Ripley was aware that federal law prohibits the sale of fetal tissue. **Mr. Ripley** replied that the State law is similar to federal law and State law prohibits profit from the harvesting of aborted baby parts. The problem is the definition of "profit." Part of the failure in both codes is to anticipate the development of an industry around the harvesting and trafficking and resale of tissue and body parts. **Senator Buckner-Webb** stated that her research shows that federal law prohibits the sale of fetal tissue. Is that your understanding also? **Mr. Ripley** responded not exactly. The federal law allows for the recovery of costs associated with the harvesting, storage and transportation of tissue. The question is, what is a reasonable cost associated with those items?

The larger question is the money that is being made and transacted in the entire market across the country. **Senator Buckner-Webb** asked for clarity on the disposal of remains and the sale of fetal tissue. Those are two different things from her standpoint. **Mr. Ripley** said that there has been extraordinary efforts

with this legislation to distinguish between various methods of the disposal of aborted babies versus the harvesting of their organs for medical research.

**TESTIMONY:**

**Leigh Doughty** spoke for herself in support of the bill. She outlined what happens when someone dies: a death certificate is issued, options are given about the remains and the person is buried or cremated – that is ingrained in our culture. Parents who have lost an unborn child have lost a beloved family member and they deserve the right to have their child recognized by the State with a miscarriage certificate and they deserve to lay their child to rest as they see fit. **Ms. Doughty** told her personal story about the loss of their child.

**Heidi Benson** spoke for herself in support of **S 1404**. She explained that she has had two tubal pregnancies and one miscarriage. She believes that the infants are alive at conception. After those deaths, she had a desire to bury them as she would have had for any other family member so there would be a place to mourn them. When a woman loses an unborn child, the family does not have the same options. A few words is all they get and then it is forgotten. It would be healing for a family that has experienced the loss of a stillborn child, a miscarriage or a tubal pregnancy to have a certificate of miscarriage and have the option to bury that child.

**Hannah Brass Greer**, Legislative Director, Planned Parenthood, spoke in opposition of **S 1404**. **Ms. Brass Greer** clearly stated that Planned Parenthood does not facilitate life saving fetal tissue donation in Idaho. Although opponents to safe and legal abortion have attempted to use heavily manipulated and doctored videos to prove that Planned Parenthood has engaged in illegal activity, those efforts have failed. Planned Parenthood has been cleared of all wrongdoing in every investigation launched in 13 states in response to these videos. Governor Otter declined to investigate even after continued pressure because there was nothing to investigate. The only people indicted for criminal activity are the individuals who created the fraudulent videos.

Planned Parenthood handles tissue in a sensitive and professional way in accordance with medical standards and regulations; this bill would force providers to deviate from those practices and it would force them to violate current guidelines and regulations governing the handling of fetal tissue. **Ms. Brass Greer** stated her appreciation of the work by Committee members to make changes to the legislation, but the language continues to be vague, overly broad and inconsistent. **Ms. Brass Greer** outlined Planned Parenthood's concerns with this bill (see attachment 5).

**Senator Stennett** asked if this legislation would be contested in court. **Ms. Brass Greer** said she didn't have a final answer. They wouldn't make that decision until the conclusion of the legislative process. They are watching and are concerned. If they can't advise their physicians about what they can and can't do, they may be forced to challenge it.

**Senator Buckner-Webb** said that miscarriage certificates would be new. The Bureau of Vital Records and Health Statistics report births, deaths and stillbirths. At this point, miscarriage certificates are not offered. **Ms. Brass Greer** stated that they are not currently offered. They are not opposed to miscarriage certificates, but it does leave questions for their providers about specific circumstances and what they would and wouldn't have to do based on the language of this bill and the request of the patient. Those two may conflict.

**Karen Simkins** representing herself, spoke in support of **S 1404**. She had two miscarriages and she experienced the first one at home. She called her doctor and asked if she should take it in and was told "no," just to discard it. The same thing happened with the second miscarriage. She expanded on her personal



story ultimately noting that if she and her husband would have had a death certificate and the opportunity to decide what to do with the remains of their little babies, it would have given them peace.

**Melissa Hemphill**, representing herself, spoke in support of **S 1404**. The loss of an unborn child is difficult and devastating; it is a true loss. She explained her experience with an ectopic pregnancy. The day after the surgery to remove the baby, Ms. Hemphill attempted to get information about the baby to no avail. She stated that her child deserved the dignity that any other deceased person does. In her opinion, she should have been afforded the opportunity to have her questions answered and to give her child a proper burial. A certificate of miscarriage would further dignify their children and acknowledge their loss.

**Senator Stennett** asked if Ms. Hemphill was comfortable with not being able to get a certificate because, in her case, it was an ectopic pregnancy. **Ms. Hemphill** said it was not her choice to lose that child; it was a life or death situation. She respectfully disagrees that ectopic and tubal pregnancies would not be treated the same as a miscarriage. **Senator Stennett** asked for clarity. **Ms. Hemphill** stated that the mother should be able to receive a certificate in that instance.

**Kathy Griesmyer**, Public Policy Strategist, American Civil Liberties Union of Idaho (ACLU), is appearing in opposition to **S 1404**. **Ms. Griesmyer** said that no one is buying or selling fetal tissue in the State of Idaho. **S 1404** is part of a nationwide attack on Planned Parenthood and other abortion providers despite the fact that no state that has investigated this issue has found any wrongdoing.

Existing federal law governs this issue in 42 U.S.C. 289g-2, which states "It shall be unlawful for any person to knowingly acquire, receive or otherwise transfer fetal tissue for valuable consideration." "Valuable consideration" does not include reasonable payments . . . or storage of human fetal tissue." Medical clinics currently handle embryonic or fetal tissue in accordance with Idaho State law. This legislation contains vague language and definitions that could jeopardize medical clinics or facilities in the final disposition and manner in which they legally dispose of medical waste. The conflict is between Idaho Code § 39-9306 and § 39-9304. Instead of passing laws that complicate a woman's decision based on her experience and forcing her to consider burial services or death certificates outlined in this bill, the focus should be to make sure she is supported and respected in her decision.

**Ms. Griesmyer** noted that donated fetal tissue has produced valuable strides in medical research. According to the Guttmacher Institute, fetal tissue has been used to develop vaccines that have saved and improved the lives of billions of people worldwide. She listed the areas of medical improvements that have been impacted, which are all dependent on fetal tissue research according to the U.S. Department of Health. **S 1404** is unnecessary and based on a mistaken assumption about the practices in place at Idaho medical facilities.

**Senator Buckner-Webb** asked if medical facilities have been involved in the discussions concerning the release of fetal tissue. **Ms. Griesmyer** said she hasn't had any direct conversations with medical waste disposal companies but there are guidelines provided through the Department of Environmental Quality. **Senator Buckner-Webb** questioned the term "mother or her representative." Mother and father may not be in a relationship; could that be a point of contention? Who would the remains be released too? **Ms. Griesmyer** responded that there could be a question. As Ms. Brass-Greer stated, there is a lot of vague language and potential unintended consequences included in this legislation that need to be considered before moving this legislation forward.

**Caitlyn Scherer**, representing herself as the mother of two lost children, spoke

in support of this legislation. She said it would be a blessing and solace to parents of unborn babies. The bill would provide parents the opportunity to grieve and ultimately heal. She compared the loss of her unborn babies with that of a cousin whose death was memorialized and life was celebrated. This bill gives parents a chance for support, to memorialize the lost, to get a certificate of death and the option to bury or cremate.

**Annick Slick**, representing herself, spoke in favor of **S 1404**. **Ms. Slick** told about her experience when they lost their son, Jacob, one day before his due date. He suffered from a genetic abnormality, holoprosencephaly and trisomy 13. They had the opportunity to connect with their son before saying goodbye. They were able to have a funeral where they could gather with loved ones who were very supportive, and Jacob was buried in a cemetery that was accessible to them. Parents need to go through a complete grieving process no matter at what point a child dies. Having some time to say goodbye or having some type of service helps tremendously. She asked for **S 1404** to pass so all mothers can have a chance to connect, grieve and have closure. It is a woman's right as her child's mother.

**Matt Slick**, representing himself in support of **S 1404**, explained that he and his wife endured this tragedy about 22 years ago, and to this day it still hurts. He is a minister of the gospel and runs a very large website so he gets emails from all over the world; he also has a radio show. He counsels people. It is his opinion that one of the things people need to do is heal. He has counseled many people who have been injured by the death of their children and can't properly heal because they are not given a decent, dignified opportunity to show the respect and love to their children whether death is in or outside the womb. This bill addresses a complicated issue.

**Kerry Uhlenkott**, Legislative Coordinator, Idaho Right to Life, spoke in support of **S 1404**. **Ms. Uhlenkott** expressed appreciation to Mr. Ripley and Idaho Chooses Life for their work on this bill to help restore the respect and dignity to unborn babies who have been aborted or miscarried; this bill attempts to do that.

**Ms. Uhlenkott** noted that the hearings investigating Planned Parenthood have found several Planned Parenthood clinics harvesting and selling baby parts. It is inhumane to treat the remains of these innocent victims of abortion with disrespect by not giving them a proper burial, treating them only as medical waste to be discarded. They stand with the pro-life community in strong support of this legislation.

**Julie Lynde**, Executive Director of Cornerstone Family Council, stated that they join the pro-life community in Idaho in strong support of **S 1404**. She stated her gratitude to Idaho Chooses Life, the sponsors and the many cosponsors of **S 1404**. This bill directly addresses the issue of harvesting and trafficking body parts of unborn babies. It allows for organ and tissue donation in cases other than abortion with the proper consent of the mother, thus allowing her dignity and respect. The bill also clarifies that mothers have the right to respectful disposition of their baby's remains. **Ms. Lynde** described the bill in detail from her perspective and offered references and links for her remarks (see attachment 6). She elaborated on several issues noted in her written statement. **Ms. Lynde** urged the Committee to vote yes on **S 1404** so that Idaho goes on record to say, "Not in My House."

**Chairman McKenzie** asked if there was anyone else who would like to testify. Being none, he asked Mr. Ripley for his closing statement.

**Mr. Ripley** said this very simple bill is complicated as it relates to the various parts of current statutes, and the definitions are very important. **Mr. Ripley**

referred to the definition section on page 2, (7), the definition of "miscarriage." He spoke to one of the mothers who had testified regarding the ectopic death of her unborn child; that unborn baby was deceased before surgery so under the definition of "miscarriage" the mother would be eligible for a certificate.

**Mr. Ripley** answered another question regarding section (4)(a) which addresses diagnostic or remedial tests, procedures or observations that have the purpose of promoting the life or health of an unborn infant or of the mother of an unborn infant. Determining whether or not all of the baby has been removed from the womb is vitally important to the health and life of the mother and those procedures would be allowed under this bill.

**Senator Stennett** asked what prohibits a mother, in the case of a miscarriage, from burying the tissue and honoring it appropriately. **Mr. Ripley** said that in certain circumstances, probably nothing. In those cases where that could or would happen, a certificate of miscarriage would validate what had happened but it would also leave a paper trail to prove what had happened.

**Senator Bayer** said that there are a lot of sources of tissue and progenitor cells available without ethical compromise for medical research; this is in reference to human tissue only. This is about ethics and dignity, it is not a measure changing abortion provisions and it does not single out any entity.

He said this conversation is about ethical standards and how they are developed in this field. Horrific things have happened in history during wartime, and studies have been conducted, even in this country, with the military and infectious diseases. Not only were those unethical, but by current guidelines, it is unethical to use the data that was gleaned in such a way. The ends does not justify the means. This legislation helps discern and draw a clear line for ethics in regards to this issue and doesn't limit any concerns in regard to medical advancement for the greater good.

**Senator Bayer** said there has been a lot of due diligence with supporters, sponsors and cosponsors, colleagues in the Legislature and with the AG's office. He is requesting the Committee to send this bill to the 14th Order due to some confusion with some of the language and that Senator Lakey would explain the proposed amendments.

**Senator Stennett** stated that she also had an AG's opinion that was a little different than Senator Lakey's and she offered to have it included as well (see attachment 3).

**Senator Lakey** briefed the Committee about work he has been doing on this legislation in conjunction with the sponsors and the AG's office. The legislation as it is now written is part of an effort to revise some of the initial language. He said the opinion obtained on the existing language was likely constitutionally defensible and may withstand a constitutional challenge. The AG's office had a couple of suggestions for additional language (see attachment 4). The additional suggested language is in the initial legislation's Findings of Purpose. The new language is included in subsection (c) of the AG's opinion and **Senator Lakey** read that paragraph. An additional amendment is in 39-9304 relating to the "Release of Remains for Final Disposition." The AG's language says the remains could be released in the case of stillbirth or miscarriage and removes the other language which would require that the mother in an abortion be advised of the disposition of the remains. It focuses that section solely on stillbirth or miscarriage and not abortion. With those two additions, the AG's opinion is that yes, the proposed amendments renders **S 1404** reasonably, legally defensible. **Senator Lakey** said that the bill, as it stands now, is legally defensible.

**Senator Lakey** addressed an item Senator Stennett mentioned in 39-9302(a) which states that "Deceased unborn infants deserve the same respect and dignity as other deceased human beings." It is not a statement that 'they are,' but it states "they deserve." He wouldn't support removing the word "other."

**MOTION:**

**Senator Lakey** moved to send **S 1404** to the 14th Order for possible amendment. **Senator Hill** seconded the motion.

**Senator Buckner-Webb** supports the motion and would like to clean up the language and get some clarity for the facilities that will have to implement some of these policies. She said she had not heard any discussion about input from medical clinics, medical professionals or the hospitals.

**Senator Stennett** noted that she had forwarded a copy of the Attorney General's opinion received to the Committee (see attachment 3).

The motion carried by **voice vote**.

**ADJOURNED:**

There being no further business, **Chairman McKenzie** adjourned the meeting at 10:05 a.m.

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Senator McKenzie  
Chair

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Twyla Melton  
Secretary

Testimony of Kathleen M. Schmainda, PhD.  
Professor of Radiology & Biophysics  
Vice-Chair of Research, Department of Radiology  
Medical College of Wisconsin\*

S1404  
Sen. Bayer  
Attachment 1

Committee on Energy and Commerce  
Select Investigative Panel on Infant Lives  
"Bioethics and Fetal Tissue"  
2 March 2016

Distinguished Chair and Honored Members of the Panel,

Thank you for the opportunity to offer my testimony in defense of infant lives and specifically in opposition to research using fetal tissue derived from induced abortions.

As background, I was trained in the disciplines of engineering and medicine receiving a PhD degree in medical engineering jointly awarded by Harvard University and Massachusetts Institute of Technology. I am currently a Professor of Radiology and Biophysics, serving as Vice Chair of Radiology Research at the Medical College of Wisconsin. I have participated in medical research for nearly 25 years. I have served on grant review panels for the National Institutes of Health (NIH) for over 15 years, including a four-year term on the Developmental Therapeutics study section. I serve on national advisory committees for clinical trials, and have founded two start-up companies. Most importantly, I am a wife and a mother.

*\*The views expressed are my own and do not represent the official views of the Medical College of Wisconsin.*

I am firmly opposed to research using human fetal or embryonic tissue from induced abortions or procedures such as in vitro fertilization (IVF). I am compelled to create awareness amongst the community and my colleagues as to why the use of such tissue is both unethical and unnecessary.

Let me begin by defining terms. The terms embryo, fetus, baby or infant each refer to different stages in the continuum of the developing child. When cells are extracted during the earliest stages these are typically human embryonic stem cells (HESC), which are obtained by destruction of the human embryo. When I speak of fetal tissue research I am referring to cells, tissues or organs that are harvested from an aborted fetus. While this is the focus of my testimony my arguments apply to the continuum of the developing child.

Proponents of research using fetal tissue make several claims. The first claim is that without fetal tissue many of the life-saving treatments we have today would not have been possible. Second, it is argued that without continued access to fetal tissue, we are preventing the discovery of new therapies. And third, it is alleged that 'proper *ethical* guidelines are already in place' to avoid the connection between abortion and fetal tissue research. I will speak to each of these claims.

**First, it needs to be made clear that no current medical treatments exist that have required using fetal tissues for their discovery or development.** While the often-cited polio vaccine was developed using fetal tissue cells, the developers later testified that initial studies were also successful using cells that were not of fetal origin. Though most vaccines today offer ethical alternatives, not all are available in the U.S., and some, such as chicken pox and Hepatitis A, currently do not have ethical alternatives [1]. *Yet there has never been a scientific reason requiring fetal cell lines for vaccine development.*

Testimony given to the FDA (US Food and Drug Administration (FDA), Center for Biologics Evaluation and Research) dated May 16, 2001, underscores this point. The developer of two common fetal cell lines (HEK 293 (human embryonic kidney) and Per C6 (isolated retina from a fetus)) stated that his motivation for developing these cell lines from aborted fetuses was simply to see 'if it could be done' in comparison to what had already been done with animal cells. Since

then, use of these cell lines has become widespread, and the manufacturers have no motivation to invest the time or money necessary to produce ethical replacements.

Due to lack of transparency, scientists can unknowingly become entrenched in using these cell lines. For example, the HEK 293 cell line is often offered as part of a standard kit available from biotechnology companies and branded under various names. Only upon specific request are alternatives provided. This lack of transparency is devastating for scientists who have ethical objections to use of this tissue and amounts to moral coercion.

**Second, I refute the claim that that without continued access to fetal tissue, the discovery of new therapies will be prevented.** The evidence is overwhelming to the contrary. For example, insulin for diabetes is produced in bacteria [2]. Chinese hamster ovary (CHO) cells have been used for the development of Herceptin for breast cancer [3] and TPA for heart attack and stroke. There are more than 70 successful treatments developed using adult stem cell sources [4]. Over over 1 million bone marrow transplants, which are essentially adult stem cell transplants, have been performed to date [5].

Still some continue to claim that fetal cells unequivocally provide the best option, because they divide rapidly and adapt to new environments easily. But alternative tissue and cell sources are available for research without ethical concerns and are demonstrating more versatility than originally thought [6]. Examples include stem cells from bone marrow, circulating blood [7], umbilical cord [8], and amniotic fluid [9] as well as induced pluripotent stem cells (iPSCs) and even neural stem cells from cadavers [10]. Adult stem cells have already been used for the development of new treatments, have been proven in clinical trials and resulted in the formation of new companies [11] that have successfully brought to market treatments that are routinely benefitting patients today. There is still no viable medical use for embryonic stem cells.



Yet the argument continues that keeping this avenue of research open may some day offer the *only hope* for a child, with a devastating disease or a person with spinal cord injury. In 1997, *The New York Times* reported the nation's first transplant of fetal tissue into a person with spinal cord injury [12]. The study required five to eight fetal spinal cords for each adult recipient but showed no significant therapeutic benefit [13, 14]. Many more studies followed with none showing significant therapeutic benefit yet with each continuing to claim *great promise*. This *promise without benefit* continues today at the cost of many human lives.

So let me address this claim from another perspective. Consider the possibility that a treatment *is* discovered using fetal tissue transplants, and it is the *only option* for a certain disease. Consider just one disease like Parkinson's, which affects up to 1 million people in the US alone. Based on a clinical trial in Sweden, cells from at least 3-4 fetuses are needed to treat each Parkinson's patient [15, 16]. So, 4 million babies would *need* to be aborted to treat this one disease, not to mention the number needed to treat patients worldwide. Imagine the magnitude of the demand for fetuses to cure yet another disease like Alzheimer's, which affects 44 million persons worldwide? Do we really want a world where the most vulnerable, those with no voice, are subject to the whims, desires and perceived needs of others? Clearly we will have created industrialized harvesting of preborn babies, a crime against the human race.

**Third, the repeated assurances that 'proper *ethical* guidelines are in place' to avoid the connection between abortion and subsequent research are entirely inadequate.** By purchasing fetal tissue products the researcher is not far removed from the act of abortion. As recently described in the journal *Nature* [17] one researcher continues to pay \$830 for each fetal liver sample, a purchase he must repeatedly make. A few years ago, before the recent media coverage, it was quite easy to go to the website of a biotechnology company and put almost any fetal body part in ones "shopping cart" and submit for a purchase. So independent of whether a

researcher is at the bedside of the one choosing an abortion, or using a fetal cell line created decades prior, by purchasing these fetal tissue products scientists are helping to create a market that drives the abortion–biotechnology industry complex [18].

Moreover, the demands of research do directly influence the procurement of fetal tissue. The timing of fetal tissue collection, as well as the procedures used to terminate the pregnancy *are* critical to obtaining research-quality tissue and at the right stage of fetal development according to the scientific need. This raises important concerns about whether the health of the mother is appropriately prioritized.

In summary I suggest consideration of the following:

1. **Prohibit research using fetal tissue from induced abortions** but provide the support and resources necessary to aid scientists or biopharmaceutical companies to make transitions to ethical tissue sources.
2. **Support the creation and continued success of institutions or efforts that undertake research using only ethical sources of tissue.** Institutions such as the Midwest Stem Cell Therapy Center come to mind. During my years as a grant reviewer for the NIH, I have been continually inspired by the brilliance and innovation of my scientific colleagues. Applying this brilliance in the context of ethical avenues of research should be encouraged and is sure to result in amazing discoveries that prove best for society.
3. **Mandate transparency in labeling of all scientific materials, drugs and cosmetic products regarding the source of material used for development or manufacture.** This will raise awareness and protect the rights of conscience for scientists, patients, and consumers who do not want to be corrupted by such practices.

Finally, I conclude with what is first and foremost. Each and every human life is sacred, with a fundamental dignity that does not depend on his or her developmental stage or abilities. This

value belongs to all without distinction from the first moment of existence. Each and every human life is unique and unrepeatable, created by our loving God in His image and likeness. Nothing, no person, no argument and not even a scientific discovery or cure, can diminish the fact that using human embryos or fetuses as objects or means of experimentation constitutes an assault against their dignity as human beings, who have a right to the same respect owed to every person [19].

Respectfully,

Kathleen M. Schmainda PhD

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51404  
Attachment 2a

March 11, 2016

Mr. David Ripley  
Idaho Chooses Life  
P.O. Box 8172  
Boise, Idaho 83707

RE: IDAHO UNBORN INFANT DIGNITY ACT

Dear Mr. Ripley:

We write to offer our support for the Idaho Unborn Infant Dignity Act (SB 1349). This is a comprehensive approach to upholding the dignity of human life in our state.

As with most Idahoans, we were greatly disturbed to see the videos released last summer and fall regarding the horrific trafficking in baby parts and tissue collected from vulnerable babies lost to abortion. It is just shocking to realize that this is going on in America.

Those videos highlight the corrosive effect legalized abortion is having upon our society.

It is imperative that our Legislature take a stand to prohibit the scandalous use of aborted babies as some sort of commodity. In our view, it is simply immoral to treat these victims as mere means to an end – however noble that justification might appear. We are confident that important medical research can continue using tissue donated from morally licit sources. It is not necessary for Idaho to lose its moral compass in the quest to treat disease.

We are also gratified to see that the proposed legislation would help provide comfort to families who lose babies to miscarriage. The provision of Fetal Death Certificates would, in many cases, be a great blessing to grieving parents. In our view, such a recognition by the State of Idaho would be a simple act of kindness, while simultaneously affirming the dignity of each human being as a gift from God.

Thank you for your work on this important legislation, and please communicate our sincere support to members of the Idaho Legislature. If we can be of further assistance, please do not hesitate to call.

Sincerely,

PASTOR TIM REMINGTON  
Altar Church/ Coeur d'Alene

PASTOR DAVE MCGARRAH  
Deer Flat Church / Caldwell

PASTOR PAUL D. VAN NOY  
Candlelight Church / Coeur d'Alene

PASTOR MATT DEMPSTER  
Riverside Community Church / CdA

PASTOR RICK DEMICHELE  
Treasure Valley Baptist

GA 20

PASTOR DAVE SNYDER  
268 Church / Meridian

PASTOR RICK KAHLBAU  
Calvary Chapel/ Coeur d'Alene

PASTOR PAUL PEABODY  
Grace Bible Church / Coeur d'Alene

PASTOR TREVOR ESTES  
Vineyard Church / Boise

PASTOR RALPH LOWE  
Legacy Church / Boise

PASTOR MARK COFFIN  
Riverside Community Church / Meridian

PASTOR ROD ENOS  
Southside Christian Center

PASTOR MARK POST  
Eagle Christian Church

PASTOR CLINT HENRY  
Central Valley Baptist

PASTOR STUART BRYAN  
Trinity Church

REV. DR. BRYCE SMINK  
Adventurer Foursquare Church

PASTOR GREG WOOD  
Collister Community Church

PASTOR DARYL ZACHMAN  
Calvary Chapel

PASTOR CRAIG MILES  
Real Life Ministries

PASTOR GORDON SLYTER  
Treasure Valley Worship Center

PASTOR BARRY MCGARRAH  
Intersect Community Church/Moscow

PASTOR JIM HALBERT  
Crossroads Community Church/Nampa

PASTOR GREG HARDY  
Troy Church of the Nazarene

REV. BILL ROSCOE  
Boise Rescue Mission

PASTOR JIM WILLIAMS  
Emmanuel Baptist Church

PASTOR JOHN HOUSER  
The Crossing Ministries

PASTORS TIM & JENNIFER WANGLER  
Crossroads Genesis





51404  
Attachment 2 b

**PRESIDENT**  
**James R. Hines, MD**

**CHIEF EXECUTIVE OFFICER**  
**David Stevens, MD**

**BOARD OF REFERENCE**  
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Founder and CEO  
JAF Ministries

**Ravi Zacharias**  
Founder and President  
Ravi Zacharias International  
Ministries

DATE: January 20, 2016

TO: Idaho State Legislators

FROM: David Stevens, MD, M.A. (Ethics)  
CEO, Christian Medical & Dental Associations

**REF: Support for the Idaho Unborn Infants Dignity Act**

I'm writing on behalf of the 15,000 members of the Christian Medical & Dental Associations to express their support of the Idaho Unborn Infants Dignity Act for the following reasons.

- It is wrong to incentivize abortions. Whatever ones personal beliefs on the morality of elective abortions, most agree it would better if they were safe and seldom.
  - Using them as a means to harvest fetal tissue can cause the abortionists to alter and modify the procedure to a less safe surgical alternatives to insure valuable intact organ harvesting.
  - Obtaining consent to use fetal tissues can in itself influence women to choose abortion when they are told "some good" can come from their heart rending decision to end the life of their child.
- Harvesting fetal tissues or cells through abortions in unnecessary.
  - There are plenty of fetal tissues available for research from spontaneous miscarriages. One in four pregnancies end in a miscarriage each year. That is over 500,000 spontaneous miscarriages a year.
- Financially incentivizing abortion providers likely increases the number of abortions.
  - Despite a nearly 20 percent decline in the number of abortions in the country between 2000 and 2011, the number of abortions Planned Parenthood performed during that time increased from 197,070 to 333,964 through marketing and expansion. They are the largest single abortion provider in the USA.
  - They had total revenues of \$1.145 million dollars in 2013-14 and \$528 million of this came from government sources and could not be used to perform abortions though it could be used to counsel a woman to have an abortion.
  - Of the remaining \$603 million dollars of non-government revenue, \$263 million (43%) to \$491 million (81%) came from abortion. That wide range is based on the unrevealed percentage of income that came from chemical abortions costing up to \$800 and surgical abortions costing up to \$1,500 (Planned Parenthood's figures) each multiplied against the 333,964

att 2b

abortions done in 2011.

- Adding \$50 to over \$1,000 (for a intact brain) **per organ** harvested markedly increases income when you consider that multiple organs and tissues can be harvested for "handling fees" from one fetus. This provides a perverse incentive to encourage women to have an abortion and to ask them to let their baby's organs and tissues is harvested.

As a bioethicist, physician and on behalf of our members, I ask you as a legislator to pass the sensible legislation of the Idaho Unborn Infants Dignity Act.

Sincerely,

A handwritten signature in black ink, appearing to read "David Stevens", written over a horizontal line.

David Stevens, MD, MA Ethics  
CEO – Christian Medical & Dental Associations.



S 1404  
Attachment 2c

March 17, 2016

To whom it may concern:

Consistent with U.S. Supreme Court precedent and good public policy, the *Idaho Unborn Infants Dignity Act*, Senate Bill 1404, provides guidance as to what happens to the bodily remains of an unborn infant after death; protects the personal right of a mother to receive and dispose of her unborn child's bodily remains; and prevents the undignified treatment or commodification of the child's bodily remains.

The bodies of deceased infants, like other deceased human bodies, are not egg, sperm, or mere tissue, and they are not part of another person's body. In *Gonzales v. Carhart*, the U.S. Supreme Court held that "by common understanding and scientific terminology, a fetus is a living organism while within the womb, whether or not it is viable outside the womb."<sup>1</sup>

A state's decision to treat the body of a miscarried, stillborn, or aborted infant with the same respect due any deceased person is consistent with Supreme Court precedent. Specifically, the Court "has recognized the legitimate interest of states and municipalities in regulating the disposal of fetal remains from abortions and miscarriages."<sup>2</sup> In *City of Akron v. Akron Ctr. for Reprod. Health, Inc.*, while striking down a particular fetal disposition law as unconstitutionally vague the Court held that a city or state "remains free, of course, to enact more carefully drawn regulations that further its legitimate interest in proper disposal of fetal remains."<sup>3</sup>

Prohibiting the use of aborted infants' bodily remains for experimentation or transplantation is good public policy and far from a novel concept.

The State has a recognized interest in protecting the integrity of the medical profession and scientific research. In *Gonzales v. Carhart*, the Court reaffirmed the principle that "the State has a significant role to play in regulating the medical profession,"<sup>4</sup> and held that "[t]here can be no doubt the government 'has an interest 'in protecting the integrity and ethics of the medical profession.'"<sup>5</sup>

The official notes of the *Uniform Anatomical Gift Act* (UAGA), adopted in some form in every state, acknowledge that states may choose to treat aborted fetuses differently, given the

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<sup>1</sup> 550 U.S. 124, 147 (2007).

<sup>2</sup> *Planned Parenthood v. Minnesota*, 910 F.2d 479, 481 (8<sup>th</sup> Cir. 1990) (citing *City of Akron v. Akron Ctr. for Reprod. Health Inc.*, 462 U.S. 416, 451-52 nn. 44, 45 (1983); *Planned Parenthood Ass'n v. Fitzpatrick*, 401 F. Supp. 554, 573 (E.D. Penn. 1975), *aff'd*, without *opin. sub nom.*, *Franklin v. Fitzpatrick*, 428 U.S. 901 (1976)).

<sup>3</sup> 462 U.S. 416, 452 n. 45 (1983).

<sup>4</sup> 550 U.S. 124, 156-157.

<sup>5</sup> *Id.* (citing *Washington v. Glucksberg*, 521 U.S. 702, 731 (1997)).

“complicated legal, scientific, moral, and ethical issues which may arise.”<sup>6</sup> Five states—Indiana,<sup>7</sup> North Dakota,<sup>8</sup> Ohio,<sup>9</sup> Oklahoma<sup>10</sup> and South Dakota<sup>11</sup>—have laws reflecting a policy determination that aborted infants should not be exploited for scientific and/or pecuniary gain.

In contrast to some state laws prohibiting research on the bodily remains of aborted infants that have been found unconstitutionally vague,<sup>12</sup> the *Idaho Unborn Infants Dignity Act* defines important terms, providing “constructive notice” and giving “police, prosecutors, juries and judges [] standards to focus the statute’s reach.”<sup>13</sup>

The *Idaho Unborn Infants Dignity Act* does not place an “undue burden” on a woman seeking an abortion; it neither proscribes any abortion nor prevents or hinders a woman from obtaining an abortion. Rather, in furtherance of recognized legitimate state interests, Senate Bill 1404 recognizes the humanity of the aborted infant by requiring that his or her bodily remains receive dignified treatment after an abortion is completed.

The *Idaho Unborn Infants Dignity Act* promotes both a respect for the lives of unborn infants and the State’s interest in promoting ethical medical and scientific research. These interests are long-recognized and exist within and outside the context of abortion.

Sincerely,

Anna Paprocki  
Staff Counsel  
Americans United for Life

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<sup>6</sup> *Revised Uniform Anatomical Gift Act*, p. 14 (2006) (Last Revised or Amended in 2009), drafted by the National Conference of Commissioners on Uniform State Laws, available at [http://www.uniformlaws.org/shared/docs/anatomical\\_gift/uaga\\_final\\_aug09.pdf](http://www.uniformlaws.org/shared/docs/anatomical_gift/uaga_final_aug09.pdf) (last visited Mar. 17, 2016).

<sup>7</sup> Ind. Code § 16-34-2-6 (prohibiting experimentation on an aborted fetus).

<sup>8</sup> N.D. Cent. Code § 14-02.2-01 and N.D. Cent. Code § 14-02.2-02 (prohibiting use of aborted fetus for research or experimentation).

<sup>9</sup> Ohio Rev. Code § 2919.14 (prohibiting sale or experimentation on aborted fetus).

<sup>10</sup> Okla. Stat. tit. 63, §1-735 (prohibiting sale or experimentation on aborted fetus).

<sup>11</sup> S.D. Codified Laws § 34023A-17 (prohibiting use of aborted fetuses in research or transplantation).

<sup>12</sup> See *Forbes v. Napolitano*, 236 F.3d 1009, 1013 (9<sup>th</sup> Cir. 2000) (holding “The dearth of notice and standards for enforcement arising from the ambiguity of the words “experimentation,” “investigation,” and “routine” thus renders the statute unconstitutionally vague.”); and *Margaret S. v. Edwards*, 794 F.2d 994, 999 (5<sup>th</sup> Cir. 1986) (“Our holding is based solely on our conclusion that the use of the terms “experiment” and “experimentation” makes the statute impermissibly vague.”).

<sup>13</sup> *Forbes v. Napolitano*, 236 F.3d at 1013.



*Senator Stennett*  
*Attachment 3*

STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL  
LAWRENCE G. WARDEN

March 17, 2016

The Honorable Michelle Stennett  
Idaho State Senator  
Statehouse  
VIA HAND DELIVERY

Re: SB 1404 –Idaho Unborn Infants Dignity Act – Our File No.-16-54196

Dear Senator Stennett:

This letter addresses your inquiry regarding whether the concerns outlined in our letter dated February 18, 2016 to Representative Crane are still applicable to the revised proposed SB 1404.

The legislative finding in proposed Idaho Code § 39-9302(1)(a) could be construed as an attempt to elevate deceased unborn infants to the status of other deceased human beings through the use of the word "other." In order to eliminate the use of the legislative purpose as a potential obstacle to the defensibility of the statute, the word "other" could be deleted from proposed Idaho Code § 39-9302(1)(a), as follows:

- (a) Deceased unborn infants deserve the same respect and dignity as ~~other~~ deceased human beings.

By limiting the requirement that a mother or her representative be informed that the mother has a "right to receive and dispose of her deceased unborn infant's bodily remains" in Idaho Code § 39-9304 to still births and miscarriages, the constitutional concerns previously raised by this Office are eased with respect to that provision. However, to clear up any potential ambiguity based challenge to proposed Idaho Code § 39-9304 regarding the receipt and disposal of fetal remains by the mother, the following amendment could be made:

In the case of still birth or miscarriage, every instance of fetal death, regardless of the duration of the pregnancy, the individual in charge of the institution where the bodily remains of the deceased unborn infant were expelled or extracted shall notify the mother's authorized representative that the mother has a right to direct the receipt and disposition ~~receive and dispose~~ of her deceased unborn infant's bodily remains.

The potential vagueness challenge concerns regarding the definition of "experimentation" have similarly eased through the limitation imposed by the amendment of "experiment" and "experimentation" to "the use of an unborn infant intended to be aborted" and the inclusion of a definition of "pathological" in proposed Idaho Code § 39-9303(8).

You also raised an issue not previously addressed by this office, namely, whether the exception in proposed Idaho Code § 39-9306(5) is too narrow and vague based upon the use of the term "medical waste facility." We believe this term, literally construed, includes any facility lawfully authorized to dispose of medical waste. Nevertheless, to address your concern the subsection could be amended to read:

(5) The terms "transfer," "accept," and "acceptance" as used in this ~~chapter~~ section do not apply to the transfer or acceptance of the body or bodily remains of an aborted infant ~~to a medical waste disposal facility~~ for the sole purpose of lawfully disposing of the body or bodily remains of an aborted infant."

The remaining concerns raised in the attachment to your email do not amend our opinion that the remainder of the revised legislation is legally defensible in light of the revisions made to SB. 1404. Inclusion of the above amendments likely makes SB. 1404 more defensible, but if those amendments are not adopted, a constitutional defense of SB. 1404 could still be advanced.

Sincerely,



BRIAN KANE  
Assistant Chief Deputy

BK/tjn



*Senator Lakey*  
*Attachment 4*

STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL

LAWRENCE G. WASDEN

March 17, 2016

The Honorable Todd Lakey  
Idaho State Senator  
Statehouse  
VIA HAND DELIVERY

Re: Additional Revisions to SB 1404 –Idaho Unborn Infants Dignity Act (SB 1404) –  
Our File No. 16-54184

Dear Senator Lakey:

This letter addresses two proposed amendments to SB 1404, namely:

**Amendment to Proposed Idaho Code § 39-9302**

(c) It is contrary to the public policy of the State of Idaho for an individual to become pregnant for the purpose of aborting an unborn infant and thereafter selling, transferring, distributing or donating her or his bodily remains for experimentation or other use.

**Amendment to Proposed Idaho Code § 39-9304.**

39-9304. RELEASE OF REMAINS FOR FINAL DISPOSITION. In the case of still birth or miscarriage, ~~every instance of fetal death, regardless of the duration of the pregnancy~~, the individual in charge of the institution where the bodily remains of the deceased unborn infant were expelled or extracted shall notify the mother's authorized representative that the mother has a right to receive and dispose of her deceased unborn infant's bodily remains. Upon request by the mother or other authorized representative, the institution shall make arrangements for the release of the bodily remains to the mother or her authorized representative for final disposition in accordance with applicable law.

You have asked whether these proposed amendments render SB 1404 reasonably legally defensible. The answer to this question is: yes. The additional finding in Idaho Code § 39-9302



Senator Lakey  
March 17, 2016  
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is consistent with this office's earlier recommendation; and the amendment to proposed Idaho Code § 39-9304 renders that particular provision more defensible from a constitutional challenge.

Sincerely,

A handwritten signature in black ink, appearing to read 'BK', with a long horizontal line extending to the right.

BRIAN KANE  
Assistant Chief Deputy

BK/tjn

**Testimony in Opposition to SB 1404**  
**Hannah Brass Greer, J.D. – Legislative Director**  
**Senate State Affairs Committee**  
**March 18, 2016**

Mr. Chairman, members of the committee, my name is Hannah Brass Greer, I'm the Legislative Director for Planned Parenthood in Idaho. I stand in opposition to SB 1404.

I would like to start out by making it very clear that Planned Parenthood does not facilitate life-saving fetal tissue donation in the state of Idaho. Although opponents to safe and legal abortion have attempted to use heavily manipulated and doctored videos to prove Planned Parenthood has engaged in illegal activity, those efforts have failed. Planned Parenthood has been cleared of all wrongdoing in every investigation launched in 13 states in response to these videos. As you know, Governor Otter declined to investigate even after continued pressure, because there was nothing to investigate. In fact, the only people indicted for criminal activity are the individuals who created the fraudulent videos.

Like all healthcare providers, we handle tissue in a sensitive and professional manner in accordance with medical standards and regulations. This bill, however, would actually force providers to deviate from safe tissue handling practices and would force them to violate current guidelines and regulations governing the handling of fetal tissue.

I appreciate all of the work by members of this committee over the last month to make changes to this legislation. Unfortunately, even after a month of work on this bill, significant problems remain. The language continues to be vague, overly broad and internally inconsistent – which is what often happens when the legislature attempts to legislate medicine. I would like to bring your attention to some of our biggest concerns with the language of this bill:

**1. The definitions of “experiment” and “experimentation” remain unconstitutionally vague and impermissibly broad:**

The definitions of “experiment” and “experimentation” in proposed Idaho Code § 39-9303(4) page 2, lines 13-21 suffer from the same problems as the original language, still leaving the provision open for legal challenge.<sup>1</sup> The definitions could arguably include nearly all medical procedures and tests on fetal tissue, and could even prevent doctors from collecting information that is important for future reproductive and health care choices. For example, does this language prohibit chronic villi sampling or an amniocentesis? Does the prohibition on experiments – which includes “observation” in its definition – mean that doctors cannot visually inspect fetal tissue to ensure an abortion is complete? Such questions are left unanswered in this bill, putting a physician at risk of unintentionally violating this law even when acting in accordance with the standard of practice and his/her best medical judgment.

**2. Proposed § 39-9304 “Release of Remains for Final Disposition” includes inconsistent and impermissibly vague language:**

On page 2, lines 45-46, the bill states that, “[i]n every instance of fetal death, regardless of duration of the pregnancy,” “institutions shall make arrangements for the release of the bodily remains for final disposition.” But in the definitions section, “fetal death” requires that “the unborn infant reached a stage of development such that there are cartilaginous structures or fetal or skeletal parts” (Proposed Idaho Code § 39-9303(5), p 2, lines 20-23). These two definitions are in direct conflict with each other and put doctors at risk of unintentionally violating this section, leaving the law vulnerable to a challenge under the due

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<sup>1</sup> Proposed Idaho Code § 39-9303(4) “Experiment” or “experimentation” means the use of bodily remains, including embryonic stem cells, or the use of the unborn infant intended to be aborted, in any trial, test, procedure or observation carried out with the goal of verifying, refuting or establishing the validity of a hypothesis, but does not include: (a) Diagnostic or remedial tests, procedures or observations that have the purpose of promoting the life or health of an unborn infant or of the mother of the unborn infant; or (b) Pathological study.

process clause of the Fourteenth Amendment. Individuals must be able to determine what actually constitutes a violation of the law, or the statute is void for vagueness. This standard is particularly heightened when there are criminal penalties, as there are in SB 1404. The conflicting and vague definitions about when a doctor must offer to release tissue for final disposition make it impossible for them to know what is expected of them under the proposed statute.

This section also requires that at the request of the woman, providers must release the remains to the woman “for final disposition *in accordance with applicable law*” (emphasis added). Under current state and federal regulations, providers are not permitted to release fetal tissue to the woman upon her request, yet the language of this section directs providers to do just that while also complying with all applicable laws. These internal inconsistencies and inability to follow this provision given current law and regulations render this section unworkable.

### 3. The Miscarriage Certificates requirement is vague and impossible to implement:

Proposed Idaho Code § 39-9305 requires the state to establish forms and procedures to allow for the filing of miscarriage certificates. However, it raises many unanswered questions for our physicians, who would be required to certify the miscarriage: What if a woman miscarries at home and comes to a provider with a previous positive home pregnancy test, but there is now no evidence of a pregnancy? Can the woman get a miscarriage certificate? What is required in the cases of ectopic pregnancies? What if a doctor must perform an abortion to safely complete the miscarriage? Will the woman be able to get a certificate if she requests it? Can midwives – who often provide prenatal care - certify a miscarriage? If not, does that unfairly deny a woman the opportunity to get a miscarriage certificate simply because of how she is getting prenatal care? The lack of clarity in this section makes it unworkable for physicians who have to guess at what is required of them.

Overall, the language in this bill leaves too many unanswered questions for providers who want to care for their patients and complying with the law.



ahs

Planned Parenthood Votes Northwest and Hawaii

Providers may be faced with the decision between continuing to provide abortions or risk felony prosecution for simply providing for their patients under the standard of care and their best medical judgment. Forcing doctors to cease performing abortions out of fear of violating an unclear law places an unconstitutional burden on a woman's ability to obtain an abortion. There are simply too many inconsistencies, overly broad and vague language in this legislation to make it workable for doctors in this state. Instead of quickly pushing this deeply flawed legislation through in the last days of the session, we urge you to hold this bill in committee.

Thank you.

*S1404 IDAHO UNBORN INFANTS DIGNITY ACT  
Senate State Affairs Committee  
March 18, 2016*

*S 1404  
Julie Lynde  
Attachment 6 (9pages)*

Good Morning. Thank you. My name is Julie Lynde. I am the Executive Director of Cornerstone Family Council. We join the pro-life community in Idaho in strong support of S1404, the Idaho Unborn Infants Dignity Act. We are deeply grateful for the work of Idaho Chooses Life, the sponsors and many co-sponsors of S1404.

S1404 directly addresses the heart wrenching issue of harvesting and trafficking the body parts of unborn babies. It allows for organ and tissue donation in cases other than abortion with proper consent of the mother, thus allowing her dignity and respect. SB1404 also clarifies that mothers have the right to respectful disposition of her baby's remains.

In the summer of 2015, America's eyes were opened to the trafficking of aborted baby parts. Undercover videos were released that shocked the nation as Planned Parenthood

executives were shown discussing harvesting aborted babies.

While the public policy of Idaho is to promote live childbirth over abortion; because of a loophole in federal law, it is currently legal to carry out those practices within Idaho. We can ensure that these horrific practices cannot occur here. SB 1404 prohibits using aborted babies or their body parts for research or experimentation.

SB 1404 also prohibits the transfer or sale of aborted babies or their body parts for research or experimentation. This would close the door on the market for these remains and shut down this profit incentive that runs contrary to Idaho's policy as well as who we are as a community.

- What is that loophole?

1993: U.S. Senator Ted Kennedy sponsored the National Institutes of Health Revitalization Act of 1993, which imposed criminal penalties for "acquiring, receiving, or otherwise



transferring human fetal tissue for valuable consideration.”

However, “valuable consideration” was defined as not including “reasonable payments associated with the transportation, implantation, processing, preservation, quality control, or storage of human fetal tissue.”[ii] This exception created a federal loophole because it allows for the transfer and trafficking of human fetal tissue, including aborted fetal tissue, so long as payments are categorized under this exception.

- The Center for Medical Progress Videos

Last summer, the Center for Medical Progress and citizen journalist David Daleiden released a series of undercover videos exposing Planned Parenthood and the horrific practices that go on within their clinics. High level Planned Parenthood officials were filmed admitting to routinely peddling and trafficking the bodies and parts of babies aborted within their clinics.

Immediately after the incontrovertible videos were first introduced to the public consciousness, Planned Parenthood released a statement on July 14, 2015, stating that, in selling aborted baby parts, “[t]here is no financial benefit for tissue

donation for either the patient or for Planned Parenthood.”

In contrast, StemExpress, one of PP’s buyers, asserts there is, in fact, a financial benefit for Planned Parenthood. Their marketing brochure proudly states that they “reward[] clinics for contributing,” and they “contribut[e] to the fiscal growth of [the] clinic.” Moreover, and most importantly, the brochure explicitly

states that StemExpress “provid[es] a *financial benefit* to [the] clinic.” Dr. Dorothy Furgerson, who works for Planned Parenthood, is quoted in the brochure extolling the *beneficial* relationship between StemExpress and Planned Parenthood.

Although Planned Parenthood has claimed they do not engage in these practices within Idaho, PP in Idaho is a part of PP NW which includes AK, HI, ID , and WA...numerous PP facilities that do business in different states...all functioning under the same corporate umbrella.

SB 1404 ensures that no experimentation or research may be done on aborted babies or their body parts, and also that no peddling or trafficking of aborted fetal remains will find its genesis

in Idaho.

The bill includes an exception for pathological study and for diagnostic or remedial procedures seeking to determine the life or health of the unborn infant, or the mother.

- Does this Impact Research and Study?

Supporters of harvesting and experimenting on aborted baby body parts claim that prohibiting those actions will cut off much-needed research and that previous research has produced “life-saving results.”

However, the track record of fetal tissue research hardly backs up those claims. As Dr. Michelle Cretella, President of the American College of Pediatricians, has noted: “Fetal tissue research, like embryonic stem cell research, has failed to produce a single successful treatment for human disease, and both have been associated with significant side-effects including overgrowth of cells and the need for immunosuppressive chemotherapy.”[iv]

In addition to the lack of results of fetal tissue research, there are

also ethical concerns with using aborted fetal tissue for experimental studies.

In 2001 for example, a controlled study to treat Parkinson's disease went terribly wrong. As reported by the New York Times, "implanting cells from aborted fetuses into patients' brains not only failed to show an overall benefit but also revealed a disastrous side effect. In about 15 percent of patients, the cells apparently grew too well, churning out so much of a chemical that controls movement that the patients writhed and jerked uncontrollably." [v] This horrible result caused researchers to advise additional patients to forgo implantation.

The reality is that fetal tissue presents no advantage to medical research, and raises grave ethical concerns. America has been exposed to the horrendous practices of trafficking in aborted baby body parts, and SB 1404 ensures Idaho will have no part of it.

- **Aborted babies should never be harvested and sold as commodities.** The Planned Parenthood videos pulled back the curtain for the entire country to see the trafficking of aborted baby body parts, and SB 1404 ensures Idaho has no part of it.

- **If Planned Parenthood claims they don't traffic in aborted baby body parts, then they should have no issues with this bill.**

The Center for Medical Progress undercover videos showed the entire country the previously unseen underbelly of America's largest abortion provider. The videos also highlighted a huge

need for legislation to cut off these practices. SB 1404 ensures no trafficking, harvesting, or experimenting in aborted baby body parts can occur within Idaho.

I know these are difficult conversations and sometimes, it just feels like too much. It is good that this is so uncomfortable. I think that tells us something about the reality we are confronting. We want to turn away from the injustice and pain.

Eventually, we just want to stop feeling it. But these conversations are important. THIS conversation is important. We are discussing vulnerable human beings...preborn babies and their moms and the commodification of both of them. Body parts of babies for sale and pregnant moms who are a source... THE source of this incredible process of profiting from this destruction of life.

We go to numb to the shock and the horror and the helpless realization that in America....where we are guaranteed life, liberty, and the pursuit of happiness...this "procedure" occurs on the altar of corporate profiteering. And we weep for our sisters. And we weep for the babies. And we weep for our country about which we sing God Bless America one day and worry the next about the state of our country.

We are no longer unable to brush aside these accusations that aborted baby body parts are being sold and trafficked because we now have proof...the words of the abortion provider, PP, and in the words of corporations who order from a menu and purchase specific body parts.

I urge your Yes vote on S1404 so that Idaho goes on record to say, "Not in My House"

Thank you,

Julie Lynde

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[ii] National Institutes of Health Revitalization Act of 1993, PL-103-43, June 10, 1993, 107 Stat 122.

[iv] Susan Berry, *Doctors Refute Planned Parenthood's Defense it Uses Aborted Fetal Tissue for Scientific Progress*, Breitbart, July 21, 2015, [www.breitbart.com/big-government/2015/07/21/doctors-refute-planned-parenthoods-defense-it-uses-aborted-fetal-tissue-for-scientific-progress/](http://www.breitbart.com/big-government/2015/07/21/doctors-refute-planned-parenthoods-defense-it-uses-aborted-fetal-tissue-for-scientific-progress/).  
[v] Gina Kolata, *Parkinson's Research is Set Back by Failure of Fetal Cell Implants*, NYTimes.com, March 8, 2001, available at [www.nytimes.com/2001/03/08/health/08PARK.html](http://www.nytimes.com/2001/03/08/health/08PARK.html).

<http://www.adflegal.org/detailspages/blog-details/allianceedge/2015/07/28/how-planned-parenthood-makes-money-selling-aborted-baby-parts>



AGENDA  
**SENATE STATE AFFAIRS COMMITTEE**  
**8:00 A.M.**  
**Room WW55**  
**Monday, March 21, 2016**

SUBJECT	DESCRIPTION	PRESENTER
VOTE ON GUBERNATORIAL APPOINTMENTS:	Vote on the Gubernatorial appointments of L. Daniel Cravens to the Idaho Commission on Human Rights and Grant A. Brackebusch to the Idaho Lottery Commission.	
<a href="#">RS24721</a>	STATING LEGISLATIVE FINDINGS about administrative rules that impose a fee or charge and rejecting rule dockets that are not approved.	Dennis Stevenson, Administrative Rules Coordinator
<a href="#">RS24722</a>	STATING LEGISLATIVE FINDINGS and approving and extending temporary rules reviewed by the Legislature	Dennis Stevenson, Administrative Rules Coordinator
<a href="#">H 542</a>	RELATING TO PUBLICATION OR DISTRIBUTION OF POLITICAL STATEMENTS regarding the requirement for communications for certain races	Representative Chaney
<a href="#">H 497</a>	RELATING TO LOBBYISTS to provide for reports by certain state entities with exceptions.	Tim Hurst, Chief Deputy, Secretary of State
<a href="#">HCR 57</a>	STATING FINDINGS OF THE LEGISLATURE encouraging the flying the Unites States and Idaho flags on certain dates.	Representative Bateman
<a href="#">H 597</a>	RELATED TO BREWERIES to allow persons under 21 years to be on the premises of a licensed brewery.	Representative Dixon
<a href="#">HJR 5</a>	PROPOSING AN AMENDMENT TO ARTICLE III regarding legislative response to administrative rules.	Representative Loertscher
<a href="#">HCR 51</a>	STATING FINDINGS OF THE LEGISLATURE and rejecting certain pending rules of the IPUC.	
MINUTES APPROVAL:	February 19, 2016	Senators Stennett and Davis
	February 22, 2016	Senators Buckner-Webb and Hill
	February 24, 2016	Senators Lakey and Winder

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman McKenzie  
Vice Chairman Lodge  
Sen Davis  
Sen Hill  
Sen Winder

Sen Siddoway  
Sen Lakey  
Sen Stennett  
Sen Buckner-Webb

COMMITTEE SECRETARY

Twyla Melton  
Room: WW42  
Phone: 332-1326  
email: [ssaf@senate.idaho.gov](mailto:ssaf@senate.idaho.gov)

MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Monday, March 21, 2016

**TIME:** 8:00 A.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Lodge, Senators Davis, Hill, Winder, Siddoway, Lakey, Stennett and Buckner-Webb

**ABSENT/EXCUSED:** None

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**CONVENED:** Chairman McKenzie called the Senate State Affairs Committee (Committee) to order at 7:59 a.m. with a quorum present.

**VOTE ON GUBERNATORIAL APPOINTMENTS:** Vote on the Gubernatorial appointments of L. Daniel Cravens to the Idaho Commission on Human Rights and Grant A. Brackebusch to the Idaho Lottery Commission (both were telephone interviews).

**MOTION:** **Senator Davis** moved to send the Gubernatorial appointments of L. Daniel Cravens to the Idaho Commission on Human Rights and Grant A. Brackebusch to the Idaho Lottery Commission to the floor with the recommendation that they be confirmed by the Senate. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

**RS 24721** **Dennis Stevenson**, Administrative Rules Coordinator, Division of Insurance and Support, Idaho Department of Administration, explained that the two RSs before the Committee are relatively simple. **RS 24721** is a concurrent resolution that approves all the pending fee rules that have been reviewed by the various standing committees of the Legislature. There were two fee rules rejected in their entirety: Docket Number 11-0501-1501, the Idaho State Police, Alcohol Beverage Control Bureau; and Docket Number 16-0319-1502, the Department of Health and Welfare, Rules Governing Certified Family Homes.

**MOTION:** **Vice Chairman Lodge** moved to send the **RS 24721** to print. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

**RS 24722** **Mr. Stevenson** said that this concurrent resolution approves all the temporary rules and allows them to remain in effect beyond the end of the legislative session. All the fee rules submitted to the standing committees were approved.

**MOTION:** **Senator Stennett** moved to send **RS 24722** to print. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

**H 542** RELATING TO PUBLICATION OR DISTRIBUTION OF POLITICAL STATEMENTS regarding the requirement for communications for certain races.

**Representative Greg Chaney**, District 10, explained that **H 542** extends the requirement for the "paid for" designation on advertising materials to include a precinct committeeman race. This does not implicate any other requirement under the Sunshine Act. The bill adds the requirement that if advertising materials are being funded, the person or entity responsible must be listed on them. Many years ago, the State took over the responsibility for the conduct of these elections

and precinct committeemen are essentially the judicial council of the Legislature; they select the short list of nominees for submission to the Governor whenever there is a vacancy in the Legislature. **Representative Chaney** stated he coordinated with the Secretary of State's office and the Governor's office in constructing this legislation to ensure it doesn't do more than was intended.

**Chairman McKenzie** asked if there have been contested precinct races where expenditures were an issue. **Representative Chaney** responded that several mailers were sent out in 2014 in Washington County and it was a large issue for them.

**Vice Chairman Lodge** asked if the required information would be similar to "paid for by" an entity or person at the bottom of a sign. **Representative Chaney** responded that yes, if there is a sign, a mailer or a door-to-door palm card, the person or entity responsible would be listed. **Vice Chairman Lodge** inquired if this would include party designation. **Representative Chaney** replied that there would not be a requirement to designate party affiliation.

**Senator Stennett** explained that during a campaign they receive contributions and those contributions are used in a variety of ways; it could be signs or literature. Would those combined individual contributions be divided up percentage-wise and allocated to a particular advertising item or could she just indicate that she purchased that item through her campaign fund? **Representative Chaney** answered that if it was a small expenditure and there was not a need for a formal Political Action Committee (PAC) for distribution, an individual's name would be sufficient.

**Senator Stennett** gave an example where she had purchased her own yard signs, does she have to change those signs to show that she had paid for them? **Representative Chaney** said that if the signs had been printed without the names, they would need to be modified to show some type of designation; a sticker or marker might be used.

**Senator Davis** referred to line 17 and the word "candidate." Wouldn't precinct committeeman be considered a candidate? **Representative Chaney** responded that, under this section of Idaho Code, the word "candidate" is pregnant with special meaning and it was Representative Chaney's intention not to invoke or implicate any other requirements under the Sunshine Act; great pains were taken to avoid the word "candidate." **Senator Davis** referred to the definition sections in Title 67, Chapter 66, where it says "candidate means an individual who is taken an affirmative action to seek nomination or election to public office." That is the public office term Representative Chaney referenced. **Senator Davis** said that if they do not do this bill and, under current existing law, is a precinct committeeman a candidate under Title 67, 66-02a? **Representative Chaney** responded "no" because, in that definition section, "public office" is also defined and that definition does not extend to precinct committeemen.

**Senator Davis** referred to the definition of "public office" which is any State office or position, State Senator, State Representative and Judge of the District Court that is filled by election. Because precinct committeeman is not in that definition, that means that they are not a candidate. Because they are not a candidate, there is no duty for any reporting. Then should precinct committeemen who are involved in an election disclose their own or other entities financial expenditures? **Representative Chaney** responded that was true to a limited degree. If the expenditures are being used to carry a particular message, the source of that message should be available for scrutiny by the voters prior to going to the ballot box.

**MOTION:** **Senator Winder** moved to send **H 542** to the floor with a **do pass** recommendation. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

**H 497** RELATING TO LOBBYISTS to provide for reports by certain entities with exceptions.

**Tim Hurst**, Chief Deputy, Secretary of State's Office, explained that **H 497** is meant to fill a gap in the Sunshine Law between people who register as lobbyists and those who are public agencies or entities. The purpose of the Sunshine Law is to disclose money spent by those supporting or opposing legislation and administrative action. Lobbyists must file reports but public agencies or entities do not. This legislation requires monthly or annual reports from any agency or entity who provides gifts to Legislators. This legislation doesn't change anything they are currently doing except they have to report it. They would not have to register as a lobbyists. The reporting could be in lump sum totals unless it went over \$105 for any one item for one legislator. If it was more than \$105, it would have to be itemized. It is the intent of the bill to capture the expenditures that are being made to do lobbying activities that are not being reported.

**Mr. Hurst** explained that Senator Davis has requested an amendment to address a problem with lines 9 and 14 of the bill that says "department of state" and "department or state" respectively. There would not be a problem with sending the bill for amendment to change the word "department" to "agency" because the Idaho Constitution refers to three departments of government, not branches of government. The intent is not to have the Legislature report, it is for agencies or entities to report.

**MOTION:** **Senator Davis** stated his appreciation to Mr. Hurst for making this change. **Senator Davis** moved to send **H 497** to the floor with the recommendation that it be sent to the 14th Order of Business for possible amendment. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

**HCR 57** STATING FINDINGS OF THE LEGISLATURE encouraging the flying of the United States and Idaho flags on certain dates.

**Representative Linden Bateman**, District 33, explained that no other nation on earth is so attached to their flag as the United States of America. Flags appear at malls, businesses and on flagpoles in the yards of the nation's citizenry. **Representative Bateman** told how two German girls staying in their home were amazed at the number of American flags that flew everywhere. America is the only country in the world where people put their hand over their heart when pledging allegiance to the flag. However, we do not often see State flags. They are seldom displayed on a home, mostly on office buildings. This legislation encourages people to fly the State flag. **Representative Bateman** declared that we are citizens of the United States of America and of the Sovereign State of Idaho.

This concurrent resolution urges Idaho citizens to fly the Idaho State flag on Idaho Day, March 4th, and on July 3rd and 4th, and on any other appropriate occasion. **Representative Bateman** presented a picture of Idaho Day on the House Floor where everyone in the picture was wearing blue to honor the Idaho flag (see attachment 1). **Representative Bateman** described the significance of July 3 and how Idaho became a state on that date.

**MOTION:** **Senator Stennett** moved to send **HCR 57** to the floor with a **do pass** recommendation. **Senator Hill** seconded the motion. The motion carried by **voice vote**.

**Senator Winder** thanked Representative Bateman for his service to the State and his passion for the State's history and children.

RELATED TO BREWERIES to allow persons under 21 years of age to be on the premises of a licensed brewery.

**Representative Sage Dixon**, District 1, distributed a handout (see attachment 2) and explained that the intent of **H 597** is to create parity between two similar but distinct industries; the wine industry and a growing craft brewery industry. The exemption language to allow minors in the tasting rooms of wineries was created in the late 1990s. **Representative Dixon** provided the history and reasoning behind that change.

Currently there are about 50 craft breweries in the State and an expected 8-10 more in the next year. Those craft breweries are spread out across the State and very often are in small resort areas. They provide a strong local economy; they are generally family owned and hire local people. It is an economic issue to keep these breweries viable and growing. The intent is to add two words into existing language where it says "wine and winery"; "beer and brewery" would be added so that minors would be allowed in the tasting rooms on brewery premises.

**Senator Lakey** described the few winery tasting rooms he has seen and they seem pretty sedate and focused with a low level of foot traffic. **Senator Lakey** stated that his impression of a brewery is that it would be broader in scope. It was his understanding that the breweries combine their brewery with their pub operations and could have a restaurant. How would activities be focused on limited circumstance versus a brewery/pub combination? The focus language is not apparent. **Representative Dixon** said that there is a clear delineation on the premises and minors would not be allowed in the pub section. There would have to be some sort of barrier.

**Chairman McKenzie** stated that the breweries he had seen were a part of a restaurant where children were allowed in the restaurant.

#### TESTIMONY:

**Roger Clements**, Regulatory Consulting Services, stated that he had retired from the Idaho State Police as a Lieutenant after 31 years of law enforcement experience; the last 11 years as Bureau Chief of Alcohol Beverage Control (ABC). **Mr. Clements** stated he is representing a brewery in McCall, Idaho. **Mr. Clements** described how the business community, laws, regulations, business practices and models, and trends have changed over the past years. The craft brewery industry has changed as it has grown. It is not like a bar and it is not exactly the same as a winery. The majority of the premises are used for manufacturing and brewing beer. It is a huge economic boost to local and the State economies. **Mr. Clements** asked for support of this bill.

**Senator Davis** referred to Title 23, Chapter 9, Section 902 and 942, that related to definitions. **Senator Davis** could not find "brewery" in those two sections. Is there a definition of brewery in Idaho Code? **Mr. Clements** said that the definition of brewery is in Chapter 10. There are different definitions of breweries and brew pubs. Part of the problem is that some of the breweries have taken the initiative to be primarily a restaurant to get the exemption for minors. The craft breweries do not have that interest or capability.

**Senator Davis** quoted the definition in subsection 23-1001 that says "as used in this chapter," that is Chapter 10; what happens in Chapter 9? **Mr. Clements** stated that Chapter 9 describes what a place is and it points to liquor by the drink, beer for on premise consumption or wine by the drink. The later chapters are Chapter 10 for beer and Chapter 13 for wine. **Senator Davis** noted that these questions are not intended to be hostile to the bill, only to ensure that the bill does what it is intended to do. **Senator Davis** said he has a definition that applies to Chapter 10 that specifically says it only applies to that Chapter. Where is

the definition of "brewer or brewery" in Chapter 9? **Mr. Clements** stated that there wasn't a need to get the definition of a brewery in Chapter 9 because a brewery could fall under the definition of a "place" since they serve beer for consumption. **Senator Davis** read the definition of "place" from Chapter 9 and asked if it was unfair to the wine industry by not including the definition of winery.

**Senator Davis** restated Senator Lakey's question: how is "brewer" defined in Title 23, Chapter 9? **Mr. Clements** responded that it is not defined in Chapter 9 nor is winery defined in Chapter 9, but they are defined in Chapters 10 and 13 respectively. That just points to the archaic statutes that need to be rewritten. The main issue is the one paragraph that exempts minors from restrictions to enter or remain on the premises of a winery; that same exception shall be made for breweries. **Senator Davis** asked if an amendment could be made to take the definitions of a "brewery" and/or "winery" from another acceptable statutory location and incorporate them somewhere in subpart 4 in **H 597**. **Mr. Clements** said that would be agreeable if the Committee thought it necessary.

**Senator Hill** asked if there is anything in **H 597** that would prohibit a brewery from having a pub on the premises where minors would be allowed. **Mr. Clements** responded that there is no such provision at this time. A brew pub is almost always a restaurant. The small breweries do not have restaurant capabilities. **Senator Hill** asked if the change proposed in this legislation grants a brewery the ability to have a pub on the premises where minors would have access. **Mr. Clements** said the change would grant a brewery the ability to have minors on the premises, including access to a tasting room.

**Bob Dodge** testified in support of **H 597**, stating he was from McCall and is associated with Broken Horn Brewing, which is owned by his son. **Mr. Dodge** outlined the living conditions in McCall as it relates to employment and supporting a family there. McCall is a resort area that attracts a wide range of people of all ages, including families with children. In most cases, a brewery sells a limited amount of beer on the premises; it is only for tasting and then people buy what they want and take it with them. **Mr. Dodge** explained how a tasting room at a winery worked. He said Broken Horn Brewing in McCall functions in the same manner except children are not allowed on the premises as they are for a winery. **Mr. Dodge** stated that the intent of this legislation is to allow tasting rooms on the premises of a brewery and allow minors on those premises.

**Representative Dixon** said the point of the legislation is to put the draft breweries on par with wineries. Wine tasting is considered an art; brewers desire a similar designation with craft beers. Craft beers promote Idaho by the use of barley, wheat and hops and strengthen those businesses throughout the State.

**Senator Winder** related that it had been brought to his attention that if the brewery is family owned, the family is very involved. Will this bill allow for an owner of a brewery to have a family member who is a minor on site assisting with the business? **Representative Dixon** answered yes. Presently, they are prohibited from being doing so. **Senator Winder** asked how many of the 50 breweries on the list presented earlier are family owned. **Mr. Clements** yielded to the question and answered that he believed it would be 40-50 percent. In smaller areas, the breweries are more likely to be family owned.

**Mr. Clements** referred to Senator Winder's first question, stating that even with this legislation, a minor, even if they are a family member, would be restricted from selling or serving beer if they are under the age of 19.

**Vice President Lodge** asked how many of these breweries brew non-alcoholic beer. **Mr. Clements** said he did not know the answer to that question but that they have the capability of brewing non-alcoholic beer.



**MOTION:** **Vice Chairman Lodge** moved to send **H 597** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion.

**SUBSTITUTE MOTION:** **Senator Davis** moved to send **H 597** to the floor with the recommendation that it be sent to the 14th Order of Business for possible amendment. **Senator Hill** seconded the motion.

**Senator Davis** stated that his intent is not hostile to the legislation. Lines 38 and 39 use the word "premises". "Premises" is included in the definition in Chapter 9, not just in Chapters 10 and 13. In Senator Davis' opinion, the prepositional phrase that follows is intended to "scope it down." The word brewery is an undefined term in any of those chapters although the word brewer is included and it can be logically assumed what a brewery is from that. However, "winery" is a very carefully defined term in 23-1303.

Each of those chapters that Mr. Clements has pointed to limits the definition to the appropriate chapter in both Chapters 10 and 13; neither term is defined in Chapter 9. This is an opportunity to help both the brewery and the winery industries by tying these to specific definitions. That is the purpose of the motion.

**Chairman McKenzie** asked for the vote on the substitute motion. The substitute motion carried by **voice vote**.

**Senator Davis** requested that Mr. Clements help construct the language for the amendment. **Mr. Clements** agreed to the request.

**HJR 5** PROPOSING AN AMENDMENT TO ARTICLE III regarding legislative response to administrative rules.

Chairman Loertscher explained that this is a vitally important piece of legislation that amends the Constitution of the State of Idaho to provide the Legislature with the ability to approve or reject administrative rules that are not subject to a Gubernatorial veto under Section 10, Article IV, of the Constitution of the State of Idaho.

**MOTION:** **Senator Hill** moved to send **HJR 5** to the floor with a **do pass** recommendation. **Senator Lakey** seconded the motion.

**Senator Davis** alerted the Committee that Joint Rule 20 says that a Joint Resolution proposing an amendment must be introduced on or before the 36th day of the legislative session. It wasn't. The rule also says it has to be transmitted from the house of origin to the other house prior to the 55th legislative day. It wasn't. Both rules have a remedy. The provision of this rule may be waived by the presiding officer of either house upon the presentment of a signed petition by the majority or minority leadership of the house. Unfortunately, neither side did that by the 36th or the 55th legislative day. **Senator Davis** explained that he has a draft letter requesting a waiver Nunc pro Tunc back to last Monday, which was the day the bill was received and introduced. The Committee needs to be aware neither body made the request. *Masons Manual of Legislative Procedure*, page 24, Section 15, subpart 1, says violations of rules of procedure adopted by a house of the Legislature for its own convenience and not required by the Constitution will not impair the validity of a statute. This is not a statute; this is a constitutional amendment. Subpart 3 says that a rule is virtually repealed for the occasion when it is disregarded by those who have power to control it.

**Senator Davis** stated that it was necessary to let this Committee know and understand the circumstances based on that language, although he doesn't know if it is necessary for either body to provide a letter Nunc pro Tunc. However, the Pro Tem and Senator Davis felt it necessary to make this disclosure to the Committee before it voted.

**Chairman McKenzie** noted that the disclosure would become part of the minutes.

The motion carried by **voice vote**.

**HCR 51**

STATING FINDINGS OF THE LEGISLATURE and rejecting certain pending rules of the Idaho Public Utilities Commission (IPUC).

**Chairman McKenzie** stated that this is a resolution rejecting rules submitted from the IPUC: IDAPA 31-11-01, Sections 202 and 203.

**MOTION:**

**Senator Hill** moved to send **HCR 51** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

**MINUTES  
APPROVAL:**

**Senator Winder** moved to approve the Minutes of February 24, 2016. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

**Senator Buckner-Webb** moved to approve the Minutes of February 22, 2016. **Senator Hill** seconded the motion. The motion carried by **voice vote**.

**Senator Stennett** moved to approve the Minutes of February 19, 2016 with one typing correction. **Senator Hill** seconded the motion. The motion carried by **voice vote**.

**ADJOURNED:**

There being no further business, **Chairman McKenzie** adjourned the meeting at 9:05 a.m.

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Senator McKenzie  
Chair

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Twyla Melton  
Secretary

Idaho Day, March 4, 2016

Idaho House of Representatives



Attachment 1

Idaho House of Representatives



## ACTIVE BREWERIES

### 11 10 BARREL BREWING

830 W Bannock Street, Boise, ID 83702  
208-344-5870 • 10Barrel.com  
Sun-Thurs: 11am - 11pm; Fri & Sat: 11am - 12am

### 2 BEAR ISLAND BREWING

No Tasting Room, on Tap around town  
Boise, ID  
208-322-7684 • BearIslandBrewing.com

### 3 BERTRAM'S BREWERY

101 S Andrews Street, Salmon, ID 83467  
208-756-3391 • BertramsBrewery.com  
Sun 8am - 9pm; Mon-Thur 11am - 9pm; Fri-Sat 8am - 10pm

### 4 BOISE BREWING

521 S Broad Street, Boise, ID 83702  
208-342-7655 • BoiseBrewing.com  
Mon - Thurs Noon - 11; Fri - Sat 12pm - 12am;  
Sun noon-10

### 5 BIG HORN - THE RAM BOISE

709 E Park Blvd, Boise, ID 83712  
208-345-2929 • TheRam.com  
Mon - Sun 11am to 11pm

### 6 BIG HORN - THE RAM MERIDIAN

3272 E Pine Ave, Meridian, ID 83642  
208-888-0314 • TheRam.com  
Mon - Thurs 11am - 11:30pm; Fri - Sat 11am - 12am; Sun 11am - 11:30pm

### 7 BROKEN HORN BREWING COMPANY

201 S Mission Street, McCall, ID 83638  
208-315-5772 • BrokenHornBrewing.com  
Thur - Sat 4pm - close; Sun 2pm - close;  
Mon 4pm - close

### 8 CLOUD 9 BREWERY

1750 W State Street, Boise, ID 83702  
208-336-0681 • Cloud9Brewery.com  
Tues - Thurs 11am - 10pm; Fri - Sat 11am - 12am;  
Sun 11am - 9pm

### 9 CRESCENT BREWERY

1521 Front Street, Nampa, ID 83651  
208-968-1034 • CrescentBeer.com  
Mon - Thurs 9am - 7pm; Fri - Sat 12pm - Close

### 10 CROOKED FENCE - BARRELHOUSE

5181 N Glenwood Street, Garden City, ID 83714  
208-376-4200 • CrookedFenceBrewing.com  
Mon - Sat 11am - 10pm; Sun 10am - 9pm

### 11 CROOKED FENCE - TASTING ROOM

5242 Chinden Blvd, Garden City, ID 83714  
208-376-4200 • CrookedFenceBrewing.com  
Wed - Fri 4:00pm - 10:00pm; Sat 12:00pm - 11:00pm; Sun 12pm - 6pm

## IDAHO BREWERS TRAIL MAP



### 12 CROOKED FLATS

3705 Idaho 16, Eagle, ID 83616  
208-286-9463 • CrookedFenceBrewing.com  
Fri 4pm - 10pm; Sat 12pm - 10pm;  
Sun 12pm - 7pm

### 13 COUNTY LINE BREWING

9115 Chinden Blvd #107, Garden City, ID 83714  
208-830-2456  
Fri 4pm - 10pm; Sat 12pm - 10pm;  
Sun 12pm - 6pm

### 16 DAFT BADGER

1710 North 2nd Street, Coeur d'Alene, ID 83814  
208-665-9892 • No Website (only Facebook)  
Tues - Sun 11am - 8pm

### 16 DOWNDRAFT BREWING

418 W Seltice Way Suite A, Post Falls, ID 83854  
208-262-4233 • DowndraftBrewing.com  
Tues - Fri 4pm - Close; Sat 1pm - 10pm

### 16 EDGE BREWING COMPANY

525 North Steelhead Way, Boise, ID 83704  
208-995-2979 • EdgeBrew.com  
Mon - Thurs 11am - 10pm; Fri - Sat 11am - 11pm; Sun 11am - 9pm

### 17 GRAND TETON BREWING

430 Old Jackson Hwy, Victor, ID 83455  
888-899-1656 • GrandTetonBrewing.com  
Mon - Fri 12pm - 8pm; Sat - Sun 1pm to 8pm  
(Tours 3:30 Mon - Sat)

### 18 HAFF BREWING

4340 Chinden Blvd, Garden City, ID 83714  
208-830-0441 • HaffBrewing.com  
Wed - Fri 4pm - 8pm; Sat 12pm - 8pm

### 19 HIGHLANDS HOLLOW BREWHOUSE

2455 Harrison Hollow Lane, Boise, ID 83702  
208-343-6820 • HighlandsHollow.com  
Mon - Sun 11am - 10pm

### 20 IDAHO BREWING COMPANY

775 S Capital Avenue, Idaho Falls, ID 83402  
208-534-7232 • IdahoBrewing.com  
Mon 3 - 7pm; Tues - Wed 3 - 9pm;  
Thurs - Sat 3 - 10pm

### 21 KOOTENAI RIVER BREWING

6424 Riverside Street, Bonners Ferry, ID 83805  
208-267-4677 • KootenaiRiverBrewing.webs.com  
11am - 9pm (or later) Every day

### 22 LAUGHING DOG BREWERY

1109 Fontaine Drive, Ponderay, ID 83852  
208-263-9222 • LaughingDogBrewing.com  
Mon - Thurs 11am - 7pm; Fri - Sat 11 - 8;  
Sun 12 - 5

### 23 LEAKY FAUCET BREWING

434 Virginia Blvd, McCall, ID 83638  
208-271-6128

### 24 MAD BOMBER BREWING COMPANY

9265 N Government Way, Hayden, ID 83835  
208-762-7343 • MadBomberBrewing.com  
Thurs 2pm - 10pm; Fri - Sat 11am - 12am;  
Sun 11am - 9pm

### 25 MCCALL BREWING COMPANY

807 N 3rd Street, McCall, ID 83638  
208-634-3309 • McCallBrew.com  
Sun - Thurs 11am - 9pm; Fri - Sat 11am - 10pm

### 26 MJ BARLEY HOPPERS BREWPUB

621 21st Street, Lewiston, ID 83501  
208-748-1008 • RedLionLewiston.com  
Mon - Thurs 4pm - 11pm; Fri 4pm - 12am;  
Sat 10am - 12am; Sun 10am - 9pm

### 27 MICKDUFF'S BREWING COMPANY

Brewpub (3 BBL Brewery)  
312 N First Ave, Sandpoint, ID 83864  
208-255-4351 • MickDuffs.com  
Open 7 days a week  
Sun-Thur 11am-9pm; Fri-Sat 11am-10pm

### 28 MICKDUFF'S BREWING COMPANY

Beer Hall & Brewery (production brewery)  
220 Cedar St, Sandpoint, ID 83864  
208-209-6700  
Hours vary seasonally - Open 7 days a week

### 29 THE MOSCOW BREWING COMPANY

630 N Almon Street Suite 130, Moscow, ID 83843  
208-874-7340 • MoscowBrewing.com  
Wed - Thur 4 - 8pm; Fri 4 - 9pm; Sat 2 - 9pm

### 30 NORTH IDAHO MOUNTAIN BREWERY

108 Nine Mile Road, Wallace, ID 83875  
208-556-1885 • NorthIdahoMountainBrew.com  
(winter hours) Tue - Thur 11am - 9pm; Fri - Sat 11am - 10pm; Sun 11am - 9pm

### 31 PARAGON BREWING

5785 N Government Way, Coeur d'Alene, ID 83815  
208-772-9292 • ParagonBrewing.com  
Tues - Sat 11am - 10pm

### 32 PAYETTE BREWING COMPANY

111 W 33rd Street, Garden City, ID 83714  
208-344-0011 • PayetteBrewing.com  
Mon - Thur 3 - 10pm; Fri - Sat 12 - 10pm;  
Sun 12 - 6pm

### 33 PORTNEU VALLEY BREWING

615 S 1st Avenue, Pocatello, ID 83201  
208-232-1644 • PortneuValleyBrewing.com  
Mon - Thurs 11am - 10pm; Fri - Sat 11am - 12am

### 34 POST MODERN BREWERS

705 W Fulton Street, Boise, ID 83702  
208-342-0944 • GrindModernBurger.com  
Daily 11 - close

### 35 RIVER OF NO RETURN BREWING

810 S. Hwy 3, Challis, ID  
208-244-0253 • No Website (only Facebook)  
Thurs, Fri and Sat 4 till close

### 36 SALMON RIVER BREWERY

411 Railroad Avenue, McCall, ID 83638  
208-634-4772 • SalmonRiverBrewery.com  
Daily 11 - 11

### 37 SAWTOOTH BREWERY

600 N Main Street #A120, Ketchum, ID 83340  
208-806-1368 • SawtoothBrewery.com  
Change Seasonally

### 38 SELKIRK ABBEY BREWING COMPANY

6180 E Seltice Way, Post Falls, ID 83854  
208-292-4901 • SelkirkAbbey.com  
Mon - Thurs 3pm - close; Fri - Sat 1pm - close

### 38 SLANTED ROCK BREWING COMPANY

2374 E Cinema Drive #100, Meridian, ID 83642  
208-288-2192 • SlantedRock.com  
Tues - Thur 4 - 9pm; Fri 2 - 10pm;  
Sat noon - 10pm; Sun 11 - 6pm

### 40 SLATE CREEK BREWING CO.

1710 N 4th St. Suite 115, Coeur d'Alene, ID 83814  
208-664-7727 • SlateCreekBrewing.com  
Thurs - Sat 2pm - 10pm

### 41 SNOW EAGLE BREWING COMPANY

455 River Parkway, Idaho Falls, ID 83402  
208-557-0455 • SnowEagleBrewing.com  
Mon - Sat 11 to 10

### 42 SOCKEYE GRILL & BREWERY

3019 N Cole Rd, Boise, ID 83704  
208-658-1533 • sockeyebrew.com  
Sun, Mon, Wed & Thurs - 11am - 10pm; Tues, Fri, Sat 11 - 11; Sun 10 - 10

### 43 SOCKEYE GRILL & BREWERY

12542 W Fairview Avenue, Boise, ID 83713  
208-322-5200 • sockeyebrew.com  
Daily 11am-close

### 44 SUN VALLEY BREWING COMPANY

202 N Main Street, Hailey, ID 83333  
208-788-0805 • SunValleyBrewery.com  
Mon - Thurs 11:30 - 9pm; Fri 11:30 - 10pm;  
Sat - Sun 12 - 9 (July 1 through Labor Day they stay open until 10pm every day)

### 45 TRESTLE BREWING COMPANY

413 Main Street, Ferdinand, ID 83826  
208-362-7233 • TrestleBrewing.com  
Tues - Sun 11am - 10pm

### 46 TRICKSTERS BREWING COMPANY

3820 N Schreiber Way, Coeur d'Alene, ID 83815  
208-966-4232 • TrickstersBrewing.com  
Mon - Sat 11 - 7

### 47 VON SCHEIDT BREWING COMPANY

157 2nd Avenue West, Twin Falls, ID 83301  
208-733-2131 • Fri - Sat 4 - 9pm

### 48 WALLACE BREWING COMPANY

610 Bank Street, Wallace, ID 83873  
208-660-3430 • WallaceBrewing.com  
Tues - Thurs 1 - 6; Fri - Sat 1 - 8; Sun 1 - 6

### 49 WILDLIFE BREWING

145 S Main Street, Victor, ID 83455  
208-787-2623 • WildlifeBrewing.com  
Mon - Sun 4pm - 9pm

### 50 WOLFTRACK BREWING & TASTING DEN

505 N King Street, Cottonwood, ID 83522  
208-507-1187  
Wed - Thur 4 - 8; Fri 4 - 9; Sat 1 - 8pm

### 51 WOODLAND EMPIRE ALE CRAFT

1114 W Front Street, Boise, ID 83702  
WoodlandEmpire.com  
Tues - Thurs 3 - 10; Fri 3 - 11; Sat 12 - 11;  
Sun 12 - 8

## BREWERIES IN PLANNING

### 52 ACCOMPLICE BREWING COMPANY

Opening 2015  
28 E Carlton Avenue, Meridian, ID 83642  
AccompliceBrewing.com

### 53 BARBARIAN BREWING

Opening 2015  
5270 Chinden Blvd, Garden City, ID 83714  
BarbarianBrewing.com/

### 54 BLACKBIRD BREWING

Opening 2015

### 55 CLAIRVOYANT BREWING COMPANY

Opening 2015  
2800 W Idaho Street, Boise, ID 83702  
ClairvoyantBrewing.com

### 56 MAGIC VALLEY BREWING

Opening 2015  
Buhl, ID  
(208) 420-5919

### 57 POWDERHAUS BREWING

Opening 2015  
9719 W Chinden Blvd, Garden City, ID 83714  
PowderhausBrewing.com

For More Information, or to request additional copies, please contact Idaho State Department of Agriculture Market Development Division at 208-332-8530

Rep Dixon

Attachment 2



AGENDA  
**SENATE STATE AFFAIRS COMMITTEE**  
8:00 A.M.  
Room WW55  
Wednesday, March 23, 2016

SUBJECT	DESCRIPTION	PRESENTER
<a href="#">RS24789</a>	STATING FINDINGS OF THE LEGISLATURE authorizing the appointment of a committee to undertake/complete a study of the Idaho income tax structure.	Senator Hill
MINUTES APPROVAL:	February 26, 2016	Senators Lodge and Davis
	February 29, 2016	Senators Hill and Siddoway
	March 16, 2016	Senators Lakey and Winder
GRADUATION OF PAGE:	Graduation of Page Luke Henrie	

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman McKenzie  
Vice Chairman Lodge  
  
Sen Davis  
Sen Hill  
Sen Winder

Sen Siddoway  
Sen Lakey  
  
Sen Stennett  
Sen Rohn(Buckner-Webb)

COMMITTEE SECRETARY

Twyla Melton  
Room: WW42  
Phone: 332-1326  
email: sstaf@senate.idaho.gov

MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Wednesday, March 23, 2016

**TIME:** 8:00 A.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Lodge, Senators Davis, Hill, Winder, Siddoway and Lakey

**ABSENT/ EXCUSED:** Senators Stennett and Rohn(Buckner-Webb)

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**CONVENED:** **Chairman McKenzie** called the Senate State Affairs Committee (Committee) to order at 8:00 a.m. with a quorum present.

**RS 24789** STATING FINDINGS OF THE LEGISLATURE authorizing the appointment of a committee to undertake/complete a study of the Idaho income tax structure.

**Senator Hill** said that this RS sets up an interim committee to look at income tax rates. Last summer, a working group was charged with the duty to look at the total tax system. The group found it hard to narrow it down to specific recommendations. The general consensus was that there was a need to create a business-friendly climate from a tax standpoint. The interim committee would have the responsibility to investigate alternative ways to reduce corporate and individual income tax rates. There are two ways to accomplish that goal: 1.) Keep dropping the rate. Without other changes, there is a limitation on how many reductions can be made. 2.) The second option is to broaden the tax base. That option would require a review of the various exemptions and deductions and what the effect would be if any one of them would be eliminated. Both alternatives will be looked at, and the group will come back to the Legislature with recommendations.

**MOTION:** **Vice Chairman Lodge** moved to send **RS 24789** to print. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

**MINUTES APPROVAL:** **Vice Chairman Lodge** moved to approve the minutes of February 26, 2016. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

**Senator Hill** moved to approve the Minutes of February 29, 2016. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

**Senator Lakey** moved to approve the Minutes of March 16, 2016. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

**GRADUATION OF PAGE:** **Chairman McKenzie** recognized Committee Page, Luke Henrie, and asked him to come to the podium. **Chairman McKenzie** stated that Mr. Henrie exemplifies a quality that is seen in many of the pages. They are remarkable in the way they interact with adults and people who hold positions of distinction. He is very impressed with how professional these students are at such a young age. **Chairman McKenzie** has enjoyed having Mr. Henrie here and acknowledged that he enjoyed reading Mr. Henrie's application letter to serve in the Senate; he is from the Chairman's district.

**Chairman McKenzie** asked what surprised Mr. Henrie from the perspective of a page. **Mr. Henrie** replied that he was surprised that the Senators all like one another. He complimented the Senators for that quality, which he respected. **Mr. Henrie** said that Idaho has a citizen Legislature so the Legislators are really busy and worked very hard.

**Chairman McKenzie** asked what Mr. Henrie's plans were when he leaves the Legislature. **Mr. Henrie** replied that he must, sadly, go back to school. He will work all summer and then will be attending the University of Idaho to study Political Science and then go to law school.

**Chairman McKenzie** presented Mr. Henrie with a gift, a letter of recommendation and a letter of appreciation from the Committee.

**Chairman McKenzie** thanked the Committee. It has been his favorite Committee and one he wanted to serve on when he was first elected. At that time he didn't realize it was the choice of leadership who was designated to serve as Chairman of the Senate State Affairs Committee. He stated that this is a strong, good Committee and thanked them.

**Senator Hill** expressed the Committee's gratitude to Chairman McKenzie. He stated that Chairman McKenzie has been courageous and very effective as Chairman of this Committee over the years. It is leadership's Committee for both the majority and the minority and Chairman McKenzie has served leadership as well as the entire Senate and the citizens of Idaho very well. They all wish the Chairman well in his future endeavors. **Chairman McKenzie** stated his thanks.

**ADJOURNED:**

There being no further business, **Chairman McKenzie** adjourned the meeting at 8:10 a.m.

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Senator McKenzie  
Chair

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Twyla Melton  
Secretary



AGENDA  
**SENATE STATE AFFAIRS COMMITTEE**  
5:00 p.m.  
Room WW55  
Thursday, March 24, 2016

SUBJECT	DESCRIPTION	PRESENTER
<a href="#">HCR 60</a>	STATING FINDINGS OF THE LEGISLATURE to allow Idaho National Laboratory the materials it needs to support clean energy research and national security missions.	Representative Thompson
<a href="#">H 639</a>	RELATING TO ADMINISTRATIVE RULES to continue certain rules in full force and effect until July 1, 2017.	Representative Bedke
<a href="#">H 649</a>	RELATING TO BREWERIES to allow persons under the age of 21 on the premises of a licensed brewery.	Representative Dixon

***If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman McKenzie  
Vice Chairman Lodge  
Sen Davis  
Sen Hill  
Sen Winder

Sen Siddoway  
Sen Lakey  
Sen Stennett  
Sen Rohn(Buckner-Webb)

COMMITTEE SECRETARY

Twyla Melton  
Room: WW42  
Phone: 332-1326  
email: sstaf@senate.idaho.gov

MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Thursday, March 24, 2016

**TIME:** 5:00 P.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Lodge, Senators Davis, Hill, Winder, Siddoway, Lakey, Stennett and Rohn(Buckner-Webb)

**ABSENT/ EXCUSED:** None

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**CONVENED:** **Chairman McKenzie** called the Senate State Affairs Committee (Committee) to order at 5:05 p.m. with a quorum present.

**HCR 60** STATING FINDINGS OF THE LEGISLATURE to allow the Idaho National Laboratory the materials it needs to support clean energy research and national security missions.

**Representative Jeff Thompson**, District 30, said that **HCR 60** directs the Legislature to urge Attorney General Lawrence Wasden to allow the Idaho National Laboratory (INL) the materials it needs to fulfill its clean energy research and national security mission. **Representative Thompson** read page 1, lines 42-43, and page 2, lines 1-4, which urge Attorney General Wasden to issue a waiver allowing research quantities of spent fuel into Idaho for research and development at the INL.

**Senator Hill** noted that this bill is a lot to absorb. He stated that he isn't closely related to this issue although he has had some discussions with the Attorney General regarding this subject. Is this something the INL has requested? What is the ultimate goal with **HCR 60**? **Representative Thompson** stated that the INL has not requested this legislation. This is only to encourage the Attorney General, with support from the House and Senate, in his negotiations with the federal government.

**Senator Winder** referred to page 2, line 3, which talks about research quantities and asked what "research quantities" mean. He wanted to ensure that it doesn't open Idaho up to receive shipments. **Representative Thompson** responded that there have been some discussions over the last few years about bringing research materials into the State; about 100 pounds were available last year but that went to another lab. Currently, another 100 pounds have become available; 100 pounds of spent fuel fits in a container approximately the size of a golf bag. INL is the only lab in the nation to perform the particular type of research that uses this type of material.

**Vice Chairman Lodge** asked if this will interfere with the ongoing lawsuit that the State has with the federal government over shipments into Idaho. **Representative Thompson** replied that there could be an effect in regard to the original agreement that said shipments could not come in unless the clean-up had been taken care of. This does not have anything to do with any new lawsuit.

**Senator Davis** said he thought that litigation had reached completion. David Hensley, Chief of Staff from the Governor's office, nodded in affirmative.

**Vice Chairman Lodge** stated that she may have a conflict of interest under Rule 39H.

**MOTION:** **Senator Hill** moved to send **HCR 60** to the floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

**H 639** RELATING TO ADMINISTRATIVE RULES to continue certain rules in full force and effect until July 1, 2017.

**Chairman McKenzie** explained that this is the annual "drop dead" bill that keeps the rules in force and effect for the next fiscal year. It is required by statute in order to continue the rules.

**MOTION:** **Senator Hill** moved to send **H 639** to the floor with a **due pass** recommendation. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

**H 649** RELATING TO BREWERIES to allow persons under the age of 21 on the premises of a licensed brewery.

Senator Keough, District 1, was there to present **H 649**.

**Senator Davis** explained that this is the bill to which the Committee wanted to add the definitions of "brewery" and "winery". Evidently there is a pending lawsuit regarding Anheuser-Busch and 10 Barrel Brewing Company, and there was a concern that the way "brewery" was defined in the amendment may have given advantage to one party over the other in that lawsuit. Additional conversations have taken place and as a courtesy, the House ran a new RS out of the House Ways and Means Committee; the litigants to the cause of action are less uncomfortable with this language. The original bill that the Committee acted on is now in the second reading calendar awaiting suspension and will stay there until the Senate acts on **H 649**. If **H 649** passes the Senate, the other bill will be pulled back to Committee.

**Senator Davis** emphasized and requested that it be stated in the minutes that the purpose of this legislation is only to enhance the policy question presented to the Legislature by Senator Keough and Representative Dixon and that it is not intended in any fashion to suggest that the Legislature is redefining the public policy of the State of Idaho for purposes of that litigation.

**Senator Keough** acknowledge and agreed with Senator Davis' explanation.

**MOTION:** **Senator Winder** moved to send **H 649** to the floor with a **do pass** recommendation. **Vice Chairman Lodge** seconded the motion. The motion carried by **voice vote**.

**ADJOURNED:** There being no further business, **Chairman McKenzie** adjourned the meeting at 5:16 p.m. subject to the call of the Chair.

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Senator McKenzie  
Chair

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Twyla Melton  
Secretary